



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

230

CRM-M-27785-2024 (O&M)

Date of decision: 29.10.2024

SURAJ

....Petitioner

V/s

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Riffi Bala Birla, Advocate, for the petitioner.

Mr.Amit Rana, Sr.DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.500 dated 11.12.2022 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station City Ferozepur, District Ferozepur.

2. Learned counsel for the petitioner submits that the petitioner's false implication in the present case is evident from the fact that he has no previous criminal antecedents much less ever being involved in any case under the NDPS Act. It has been submitted that a recovery of 3.98 grams of tablets of etizolam was allegedly recovered from the petitioner when he was said to have been intercepted by the police on suspicion. It has been contended by the learned counsel that the alleged recovery, though falsely planted upon the petitioner, is just marginally higher than the minimum classified as commercial i.e. 2.5 grams, under the NDPS Act. It has also



been submitted that after the challan was presented on 20.06.2023, charges were framed on 17.10.2023, however till date only 03 prosecution witnesses had been examined, hence there is no possibility of the trial concluding in the near future. A prayer has, therefore, been made for enlarging the petitioner on bail.

3. *Per contra*, learned State counsel, while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has not disputed the custody period of the petitioner as well as the stage of trial. However, it has been submitted that although the alleged recovery is marginally higher than the minimum classified as commercial under the NDPS Act, it was affected from the personal search of the petitioner. Learned State counsel has submitted that the next date fixed before the trial Court is 6.11.2024 when there is every likelihood that some more prosecution witnesses would be examined.

On a pointed query posed to the learned State counsel, it has not been disputed that the petitioner has no previous criminal antecedents.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. The petitioner has been in custody for close to two years having been arrested on 11.12.2022. The trial is still underway as only three prosecution witnesses out of the nine have been examined till date. The alleged recovery, though classified as commercial, is marginally higher than the minimum prescribed as commercial under the NDPS Act.

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is allowed and the petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

7. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

October 29, 2024

poonam

(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No