

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-30673-2022

Date of decision: 14.02.2024

Satnam Singh @ Sabha

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Kuljit Singh Bal, Advocate,  
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

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Manjari Nehru Kaul, J.

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.118 dated 24.08.2021, under Section 21 C, 27, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Guraya, District Jalandhar Rural.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner has been in custody since 24.08.2021 for being allegedly found in possession of 2700 tablets of Etizolam. Learned counsel submits that a false and fabricated case has been planted upon the petitioner, which finds credence from certain documents, like for example, consent memos etc. not bearing the signatures of the petitioner. Learned counsel for the petitioner has further asserted that even though the challan was presented way back on 20.01.2022, followed by the framing of charges on 24.05.2022, however, it was a matter of record that till date, the prosecution evidence had not even commenced. He submits that as

many as 14 prosecution witnesses have been cited and the next date before the trial Court is 27.02.2024 when some witnesses may be examined. It has further been asserted by the learned counsel that the petitioner cannot be made to languish in custody for the reasons attributable to the prosecution, as all the witnesses cited by the prosecution, though officials, have not been appearing before the trial Court to get their evidence recorded. In support of his arguments, learned counsel for the petitioner has placed reliance on the judgment passed in ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh (SLP(Crl.) No.6690/2022) decided on 25.01.2023***, wherein in identical circumstances, Hon'ble the Supreme Court had extended the concession of bail to the accused therein. He submits that in the circumstances, further incarceration of the petitioner would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Surinder Pal, has not been able to dispute the submissions made by the counsel opposite qua the status of the trial. He, however, submits that the recovery effected from the petitioner was huge and had been classified as commercial under the Act. On a pointed query put to the learned Stat counsel, as to whether the petitioner is involved in any other case under the NDPS Act, he on instructions from ASI Surinder Pal, had replied in the negative.

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

5. The petitioner has been languishing in custody since 24.08.2021. It is evident that after the charges were framed more than 1½ years back, the trial had come to a factual standstill on account of non appearance of the prosecution witnesses.

6. Hon'ble the Supreme Court in '***Dheeraj Kumar Shukla's*** case (ibid), has observed as under:-

*".... It is true that the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be attracted. However, in the absence of criminal antecedents and the fact that the petitioner is in custody for the last two and a half years, we are satisfied that the conditions of Section 37 of the Act can be dispensed with at this stage, more so when the trial is yet to commence though the charges have been framed."*

7. In the facts and circumstances as enumerated hereinabove and the observations made by Hon'ble the Supreme Court in ***Dheeraj Kumar Shukla's*** case (ibid), this Court deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

8. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)  
JUDGE

14.02.2024  
Ajay Prasher