



CRM-M-30063-2024

**231 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**CRM-M-30063-2024
Decided on : 26.11.2024

Lakhvir Singh @ Lakha

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAULPresent : Mr. Imran Farooqi, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

1. This is the petition filed by the petitioner seeking concession of regular bail in case FIR No.25 dated 31.01.2023 under Sections 22(c), 61 and 85 of NDPS Act, 1985 registered at Police Station Gobindgarh Mandi District Fatehgarh Sahib.

2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and has now been in custody since 31.01.2023. It has been submitted that the petitioner was pillion riding behind co-accused when the police on suspicion allegedly intercepted them leading to a recovery of 12 injections of Buprenorphine from the boot of the scooter. Learned counsel has submitted that it is a matter of record that the two-wheeler on which the petitioner was pillion riding was registered in



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the name of the co-accused, who was riding the scooter at the relevant time. It has also been asserted by the learned counsel that petitioner's false implication in the present case finds due support from the factum of the petitioner having no previous criminal antecedents much less being involved in a case under the NDPS Act. Learned counsel has still further contended that the petitioner has been languishing in custody since 31.01.2023 and even though challan was presented way back on 28.07.2023 followed by framing of charges on 06.09.2023, however, till date, none of the 13 prosecution witnesses have been examined. Hence, the petitioner could not be made to incarcerate for reasons not attributable to the petitioner but the prosecution and prosecution alone. Learned counsel, while placing reliance on ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP (Crl.) No.6690/2022]***, has submitted that in identical circumstances on account of delayed trial, Hon'ble the Supreme Court had done away with the bar under Section 37 of the NDPS Act, even though in the said case, the recovered contraband had been classified as commercial.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed the custody period of the petitioner as well as stage of trial. However, on instructions, learned State counsel has submitted that one prosecution witness out of 13 has been examined. Learned State counsel, on further instructions, has also not disputed that the alleged



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recovery was affected from the boot of the scooter, which stands registered in the name of co-accused, who has since been extended the concession of bail.

4. On a further query put to the learned State counsel, he has not disputed that the petitioner has no previous criminal antecedents.

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

6. The petitioner has been in custody since 31.01.2023. The trial will take considerable time to conclude as only one prosecution witness has been examined till date and the delay in the conclusion of trial has been on account of the irregular appearances of the prosecution witnesses. Hon'ble the Supreme Court in ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP(Crl.) No.6690/2022]*** decided on 25.01.2023, 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 coupled with the fact that the petitioner has no previous criminal



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antecedents, this Court deems it fit to extend the concession of regular bail to the petitioner. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. 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.

9. 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.

26.11.2024
sonia

(MANJARI NEHRU KAUL)
JUDGE

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