



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.31649 of 2024
Date of decision: 29th October, 2024

Karandeep Singh @ Kalu
... Petitioner

Versus

State of Punjab
... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Amit Arora, Advocate for the petitioner.
Mr. Navdeep Singh, Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.144 dated 12.08.2022 under Sections 21/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the Act') registered at Police Station Gharinda, District Amritsar Rural.
2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and has now been in custody for more than two years after being arrested on 12.08.2022. It has been further submitted that even though challan was presented way back on 07.02.2023, followed by the framing of charges on 24.05.2023, however, it is a matter of record that on account of the continuous and repeated absence of the prosecution witnesses, the trial had not

proceeded further; as on date only 02 prosecution witnesses out of the 13 cited had been partially examined. Learned counsel has submitted that in the present case all the witnesses cited are official witnesses; despite issuance ofailable warrants to secure the presence of these witnesses, they had been absenting themselves before the learned Trial Court. Learned counsel has thus urged that in the aforementioned facts and circumstances, the right to a speedy trial of the petitioner was being compromised and he could not be made to incarcerate for reasons not attributable to him but to the prosecution and prosecution alone.

3. On a pointed query put to the learned counsel as to whether the petitioner is involved in any other criminal case, he has categorically replied in the negative.

4. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed the stage of trial. It has also not been disputed that all the witnesses in the present case are officials, who have been absenting themselves continuously before the learned Trial Court to get their evidence recorded. However, learned State counsel has submitted that the petitioner was apprehended by the police on suspicion and after due compliance of the mandatory provisions of the Act, recovery of 600 grams of heroin was effected which has been classified as 'commercial' under the Act.

5. On a query posed to the learned State counsel as to whether the petitioner is involved in any other criminal case, he too, on instructions has replied in the negative.

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

7. The petitioner has been in custody since 12.08.2022 and the trial has come to a virtual standstill on account of the lackadaisical attitude of the prosecution witnesses who for reasons best known to them have not been appearing to get their evidence recorded before the learned Trial Court. The petitioner is not involved in any other criminal case, much less under the NDPS Act. 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.”

8. In the facts and circumstances as enumerated hereinabove, this Court deems it appropriate to allow the instant petition by dispensing with the conditions of Section 37 of the NDPS Act. 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. 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. 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.

(MANJARI NEHRU KAUL)
JUDGE

October 29, 2024
rps

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