



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

245

CRM-M-35092-2024

Date of decision: 29.07.2024

NAVDEEP SINGH

....Petitioner

V/s

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sonpreet Singh Brar, 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.90 dated 19.10.2022 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Sadar Rajpura, District Patiala.
2. Learned counsel for the petitioner submits that the petitioner has no criminal antecedents and has now been in custody since 19.10.2022 in a case of false implication; alleged recovery of 50 vials of Codeine Phosphate (cough syrup) was allegedly affected from the rear seat of the car which was being driven by him. It has been argued by the learned counsel that the registered owner of the car from which the alleged recovery was affected was co-accused Deepanshu Verma, who at that point of time was sitting besides him. It has been further submitted that even though the challan was presented on 02.02.2023 and charges framed on 06.03.2023, however, till date only two prosecution witnesses out of



16 cited by the prosecution had been examined; a perusal of the zimni orders annexed as Annexure P-5 reveal that the trial has been prolonged on account of the fact that the prosecution witnesses, who are all police officials in the present case, remained unserved continuously and on few dates remaining prosecution witnesses failed to appear to get their evidence recorded. Learned counsel has submitted that in the aforementioned facts and circumstances, there is no possibility of the trial concluding in the near future. Learned counsel has submitted that in identical circumstances, Hon'ble the Supreme Court in *Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP(Crl.) No.6690/2022]* had extended the concession of bail to the accused therein by dispensing with the conditions of Section 37 of the NDPS Act.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel opposite, has submitted that the petitioner and the co-accused were intercepted on suspicion by the police party and thereafter recovery of 50 viles was seized from the rear seat of the car which was admittedly owned by the co-accused who too was seated in the car at that point in time. Learned State counsel has not disputed the stage of trial and has also not disputed that the petitioner has clean antecedents and is not involved in any other criminal case much less under the NDPS Act.

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



CRM-M-35092-2024

-3-

5. The petitioner has been in custody since 19.10.2022. The possibility of the trial concluding in the near future seems remote. 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.”

6. 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.

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.

(MANJARI NEHRU KAUL)
JUDGE

July 29, 2024
poonam

Whether speaking/reasoned:	Yes
Whether reportable:	No