



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

110+212

CRM-M-34906-2024 (O&M)

Date of decision: 27.09.2024

Jagsir Singh @ Jagseer Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-38223-2024

Prayer in the application is for correction in the head note of the petition as inadvertently it has been wrongly mentioned as 'grant of regular bail for a period of two weeks'.

Notice of the application.

Learned State counsel accepts notice of the application.

In view of the reasons mentioned in the application, the same is allowed. The head note of the petition is allowed to be corrected and the amended head note annexed with the application is ordered to be taken on record in place of previous head note.

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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.99 dated 14.04.2022 under Sections 22-C, 27-A of the Narcotic Drugs and



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Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Sadar Tohana, District Fatehabad, till the decision of the case.

2. Learned counsel for the petitioner submits that the petitioner, who is handicapped and on a wheel chair, has been in custody since 14.04.2022, in an apparent case of false implication; as per the case of the prosecution, a secret information was received qua the involvement of the petitioner in drug trafficking, which led to the alleged recovery of 107 grams of Alprazolam from his possession. It is argued that the false implication of the petitioner is also evident from the fact that 02 other FIRs under the NDPS Act were registered on 13.04.2022, just one day prior to the registration of the present case. No recovery of any contraband was effected from the petitioner rather the contraband in those 02 cases had been recovered from the possession of co-accused. However, in a peculiar turn of events, the co-accused in both these cases allegedly made disclosure statement 15 days later, implicating the petitioner as an accused in those cases. Learned counsel further submits that it is a matter of record that the petitioner was already in custody on 14.04.2022, making it impossible for him to have supplied the contraband that was allegedly recovered in those 02 earlier cases. Learned counsel has thus, argued that all these facts when appreciated in their entirety do cast serious doubts on the credibility of the allegations levelled against the petitioner in the instant case also. Moreover, it has been submitted that in the present case, the challan has already been presented, and charges also stand framed. However,

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despite more than 2½ years having past after the petitioner was arrested on 14.04.2022, only 02 prosecution witnesses have been examined so far out of the 16 cited, and there is no likelihood that the trial will conclude any time soon.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel opposite, has on instructions, submitted that no doubt the petitioner is physically handicapped and uses a wheel chair, the recovery of 107 grams of Alprazolam was made from inside his house. Learned State counsel has, however, not disputed on instructions that the petitioner came to be nominated as an accused in the 02 other cases registered against him 15 days after the registration of FIR in those cases on 13.04.2022, and at the relevant time, he was already in custody in the present case. Learned State counsel on instructions has also not disputed the custody period of the petitioner as well as the stage of trial.

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

5. The petitioner has been in custody since 14.04.2022. As not disputed by the learned State counsel, on instructions, after framing of charges only 02 prosecution witnesses have been examined and 14 prosecution witnesses still remain to be examined. In the instant case the recovered contraband is just marginally higher than the minimum classified as 'commercial', this Court, therefore, deems it fit to extend the concession of bail to the petitioner by dispensing with the conditions of Section 37 of the NDPS Act as in an identical case

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. 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.

8. Pending applications, if any, stand disposed of.

27.09.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No