

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.37356 of 2023

Date of decision: 26th February, 2024

Harmeet Singh @ Gela

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. G.S. Sandhu, Advocate for the petitioner.

Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.174 dated 24.06.2021 under Sections 15(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Lambi, District Sri Muktsar Sahib.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 24.06.2021 in a case of false implication. He submits that as per the allegations leveled in the FIR in question, the petitioner, who was driving a car along with co-accused, was intercepted on suspicion and thereafter, a recovery of 170 kgs of poppy husk effected from the boot of the car. Learned counsel further submits that it was a false recovery which had been planted upon the petitioner, which is evident from the fact that the petitioner has clean

antecedents. He further submits that even otherwise, trial has come to a virtual standstill after challan was presented on 02.12.2021; charges were framed on 10.01.2022, however, till date only 1 prosecution witness out of the 21 cited had been examined and on all the dates thereafter, the case was being adjourned on the request made by the prosecution. Learned counsel submits that in the circumstances, the petitioner cannot be made to languish in custody for reasons attributable to the prosecution. It has been further submitted that the next date of hearing fixed before the trial Court is 22.03.2024 when some more witnesses have been summoned.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from HC Jagdish Singh, has not been able to dispute the status of the trial as well as the trial having come to a virtual standstill after charges were framed more than a year back as only one prosecution witness out of the 21 cited stands examined. On further instructions, it has also not been disputed that the case is being adjourned on the request made by the prosecution. Learned State counsel, however, has submitted that a huge recovery of 170 kgs of poppy husk was effected from a car which was being driven by the petitioner who also happens to be the owner of the said car. Learned State counsel has though not disputed that the petitioner has clean antecedents as he 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 relevant material on record.

5. The petitioner has now been in custody since 24.06.2021 and seeing the progress made before the trial Court, there is no likelihood of the trial concluding in the near future.

6. 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 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

February 26, 2024
rps

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