

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

104+219

2024:PHHC:034065
CRM-10349-2024 in/and
CRM-M-38709-2023
Date of decision: March 11th, 2024

Harpreet Singh
.....Petitioner

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. S.P.S. Khaira, Advocate
for the applicant-petitioner.

Mr. Navdeep Singh, Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-10349-2024

Prayer in this application is for placing on record the copy
of zimni orders.

Application is allowed subject to just exceptions.

Annexure A-1 is taken on record.

CRM-M-38709-2023

Petitioner is seeking the concession of bail under Section
439 of the Code of Criminal Procedure, 1973 in case FIR No.111 dated
15.07.2022 registered under Sections 15, 25, 29 of NDPS Act, 1985 at
Police Station Sadar Khanna, District Ludhiana.

2. Learned counsel for the petitioner, *inter alia*, contends that
the petitioner has been in custody since 15.07.2022. Learned counsel
submits that as per the case of the prosecution, a truck being driven by
the petitioner, was intercepted and then a recovery of poppy husk from
two bags weighing 100 kilograms was effected. It has been submitted
that it is a case of false implication. Learned counsel has still further

submitted that after the challan was presented on 17.11.2022, it was followed by the framing of charges on 21.02.2023, however, till date only two witnesses had been partly examined out of the 13 cited by the prosecution and hence, there was no likelihood of the trial concluding in the near future. In support, learned counsel has drawn the attention of this Court to the zimni orders, which have been annexed as Annexure A-1. He has asserted that a perusal of these zimni orders clearly reveal that on each and every date, after the charges were framed on 21.02.2023, the trial Court had been adjourning the case on account of the non-appearance of the prosecution witnesses except for on two dates, when two of the prosecution witnesses were partly examined. Learned counsel submits that in identical circumstances, Hon'ble the Supreme Court had granted the concession of bail in *Dheeraj Kumar Shukla Vs. State of Uttar Pradesh (SLP(Crl.) No.6690/2022)* decided on 25.01.2023

3. Learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from HC Bikramjit Singh, has not disputed the submissions made by the counsel opposite that only two prosecution witnesses stand partly examined till date. He has also not been able to dispute the submissions made by the counsel opposite qua the case being adjourned repeatedly on account of non-appearance of the prosecution witnesses. He has, however, submitted that the next date fixed before the trial Court is 14.03.2024 when in all likelihood the evidence of the two prosecution witnesses, who were partly examined on the previous dates of hearing, would be concluded.

4. On a pointed query put to the learned State counsel as to whether the petitioner has any criminal antecedents, he has on instructions, replied in the negative.

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

6. The petitioner has been in custody since 15.07.2022. The trial is unlikely to conclude in the near future.

7. Hon'ble 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.

9. Accordingly, the instant petition is allowed. Petitioner be admitted to bail 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.

10. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

March 11th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned

:

Yes

Whether reportable

:

No