

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

206

2024:PHHC:008080

CRM-M-40336-2023

Date of decision: January 20th, 2024

Amarjiit Singh

.....Petitioner

Versus

The State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Lakhwinder Singh Lakhanpal, Advocate
for the petitioner.

Mr. Mohit Kapoor, Additional Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.151 dated 29.10.2021 under Section 22 (C) of the NDPS Act registered at Police Station Sadar Patti, District Tarn Taran.

2. Learned counsel for the petitioner, *inter alia*, contends that in a case of chance recovery, the petitioner was apprehended on 29.10.2021 and thereafter, a false recovery of 4260 tablets of tramadol along with 5100 tablets of alprazolam was planted upon him. Learned counsel submits that his false implication in the case in hand is discernible from the fact that he has clean antecedents as he is not involved in any other criminal case much less under the NDPS Act. It has been further submitted that even though the challan was presented way back on 25.07.2022 and charges also framed on the same date, however, even after a lapse of more than 1½ years, not even a single prosecution witness out of the 15 cited had been examined till date.

It has been asserted that the delay in the conclusion of the trial has been

for reasons attributable to the prosecution, for which the petitioner cannot be made to languish in custody.

3. Learned State counsel while opposing the prayer and submissions made by the counsel opposite has submitted that a huge recovery falling under the commercial quantity was effected from the petitioner when he was intercepted on suspicion. However, learned State counsel, on instructions, has not been able to controvert that the trial has come to a virtual standstill after the charges were framed on 25.07.2022 as none of the prosecution witnesses had been examined. He, however, submits that the next date fixed before the trial Court is 07.02.2024 when there is a likelihood of some prosecution witnesses being examined.

4. On a pointed query put to the learned State counsel qua the criminal antecedents of the petitioner, he on instructions, has informed the Court that the petitioner is not involved in any other criminal case much less under the NDPS Act.

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

6. As not disputed by the learned State counsel that after the petitioner was arrested on 29.10.2021, the trial has not been proceeding.

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.

January 20th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No