



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

282**CRM-M-44478-2024****Date of decision: 17.12.2024**

Balwinder Kumar

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr.Satnam Singh Gill, Advocate, for the petitioner.

Mr.Shiva Khurmi, AAG, 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.146 dated 11.10.2023 under Section 22 of the NDPS Act, 1985 registered at Police Station Lalru, Mohali District SAS Nagar, Mohali.

2. Learned counsel for the petitioner submits that after the petitioner was arrested on 11.10.2023 and a recovery of 900 tablets of Diphenoxylate was allegedly affected, the trial had been proceeding at a considerably slow pace; charges were framed on 01.04.2024, however, till date only one prosecution witness out of the 12 cited have been examined. Learned counsel submits that in the circumstances there is no likelihood of the trial concluding in the near future. It has also been argued by the learned counsel that the alleged recovery affected from the petitioner is just marginally higher than the minimum classified as commercial under the Act; the petitioner has no previous criminal antecedents as he has never

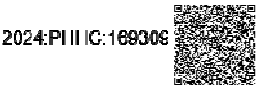


been involved in any other criminal case much less a case under the NDPS Act.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Jaswinder Singh, has not been able to dispute the custody period of the petitioner nor has he disputed the alleged recovery from the petitioner being just marginally higher than the minimum classified as commercial under the Act. It has also not been disputed, on instructions, that the petitioner does not have any previous criminal antecedents. However, learned State counsel, on instructions, has submitted that the petitioner was apprehended on suspicion with the recovered contraband while he was standing at the bus stand. Learned State counsel, on further instructions has submitted that the next date fixed before the trial Court is 24.01.2025 when some of the remaining 11 prosecution witnesses are likely to be examined.

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

5. The petitioner has been in custody since 11.10.2023 for allegedly being nabbed on suspicion with 56 grams of diphenoxylate which is just 6 grams higher than the minimum prescribed under the NDPS Act. The petitioner is not stated to be involved in any other criminal case much less under the NDPS Act. The trial would take considerable long time to conclude as only one prosecution witness, out of the 12 cited, has been examined till date.



In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is allowed and 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

December 17, 2024
poonam

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