



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

225

CRM-M-42765-2023
Date of decision: August 13th, 2024

Sangeeta

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Akashdeep Singh, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, Assistant Advocate General,
Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.378 dated 06.09.2022 under Sections 20(b)(ii)(C) (Section 29 added later on) of the NDPS Act, registered at Police Station I.M.T. Rohtak.

2. Learned counsel for the petitioner has reiterated his submissions made on the previous dates of hearing that the petitioner had been falsely implicated in the present case for allegedly transporting 112.90 kilograms of *ganja*; learned counsel has submitted that despite the petitioner having been arrested on 06.09.2022 and thereafter, challan presented on 18.02.2023, charges were framed as recently as on 06.08.2024. Hence, in the circumstances, more so when as many as 18 witnesses have been cited by the prosecution, there is no likelihood of the trial concluding in the near future. It has also been submitted by the learned counsel that in the present case, the arrest of the petitioner, who is a lady, had been made in contravention of Section 46 (4) of the

Cr.P.C.; at the time of her arrest, which was at 10:00 PM on the fateful day, neither any report was made in the said regard to the Judicial Magistrate 1st Class nor any prior permission obtained. Learned counsel has also submitted that the petitioner has clean antecedents and is not involved in any other criminal case much less under the NDPS Act. While drawing the attention of this Court to the judgment of Hon'ble the Supreme Court in *Dheeraj Kumar Shukla Vs. State of Uttar Pradesh (SLP (Crl.) No.6690/2022)* decided on **25.01.2023**, learned counsel has submitted that in identical circumstances, the accused therein had been extended the concession of bail on account of his long incarceration.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite has submitted that the petitioner was apprehended with a huge quantity of contraband i.e. 112.90 kilograms of *ganja*, which is more than the minimum classified as commercial under the NDPS Act. It has, however, not been disputed by the learned State counsel that the petitioner is not involved in any other criminal case; the stage of the trial has also not been disputed by the learned State counsel.

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

5. The trial in the present case has come to a virtual standstill as the charges were framed as recently as on 06.08.2024, even through challan was presented way back on 18.02.2023. The petitioner, as conceded by the learned State counsel, has no criminal antecedents and is a 67 year old lady.

6. No doubt, a recovery of 112.90 kilograms of *ganja* was allegedly affected from the petitioner, however, this Court cannot turn a blind eye to her long incarceration. Hon’ble the Supreme Court in *Dheeraj Kumar Shukla’s case (supra)* has held 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, the instant petition is allowed and interim order dated 15.02.2024, is made absolute.

August 13th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No