



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

240

CRM-M-41150-2024

Date of decision: 02.09.2024

Manpreet Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sukhwinder S. Dhillon, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.182 dated 24.07.2022 under Sections 21, 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Lambi, District Sri Muktsar Sahib.

2. Learned counsel for the petitioner at the outset has drawn the attention of this Court to the contents of the FIR which has been annexed as Annexure P-1. Learned counsel submits that a perusal of the FIR reveals that as per the case of the prosecution itself, the police party chanced upon the petitioner and his co-accused while they were trying to peep into an envelope which was lying by the roadside, however, on seeing the police party, the petitioner and the co-accused allegedly panicked and threw the envelope away. Learned counsel submits that it was on suspicion the petitioner and the co-accused were

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then apprehended by the police party leading to a recovery of 1000 tablets of Tramadol along with some intoxicant powder from the envelope. Learned counsel has submitted that the petitioner although is involved in one more criminal case under the IPC, however, he is not involved in any other case under the NDPS Act which lends credence to his false implication in the present case. It has been further submitted that even assuming for the sake of arguments, though not conceded, that the petitioner along with the co-accused was indeed peeping into the envelope which was lying by the roadside when he was apprehended by the police on suspicion, it could not in any manner link the petitioner with the contraband which was found in the envelope. Learned counsel has submitted that after the petitioner was arrested in the present case on 24.07.2022, challan had been presented and charges framed on 18.03.2023, however, till date only 02 prosecution witnesses out of the 14 cited, had been examined, hence, it was unlikely that the trial would conclude anytime in the near future. It has also been submitted that identically placed co-accused who was apprehended along with the petitioner, Dilmohandip Singh @ Anshi has already been extended the concession of bail vide order dated 12.08.2024 by this Court on account of the inordinate delay in the conclusion of the trial. A prayer has, therefore, been made by the learned counsel to admit the petitioner to bail. In support, learned counsel has also placed reliance upon ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP(Crl.) No.6690/2022]***, wherein Hon'ble the Supreme Court in almost identical circumstances had extended the concession of bail to



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the accused on account of inordinate delay in the conclusion of the trial even though the recovery effected had been classified as commercial in the said case; Hon'ble the Supreme Court had dispensed with the conditions of Section 37 of the NDPS Act.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed the contents of the FIR in question. However, it has been submitted by learned State counsel, on instructions, that the alleged recovery effected from the envelope was huge and fell under the commercial quantity. On further instructions, learned State counsel has not disputed the stage of trial and also the factum of identically placed co-accused having been extended the concession of bail.

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

5. The petitioner has been in custody since 24.07.2022. The possibility of the trial concluding in the near future seems remote. The petitioner is not involved in any other case under the NDPS Act. 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.”



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6. 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. Accordingly, the instant petition is allowed. 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.

02.09.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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