

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.47973 of 2022

Date of decision: 5th February, 2024

Gurmeet Singh @ Geetu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Naveen Bawa, Advocate for the petitioner.

Mr. Arun Luthra, Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.13 dated 26.01.2022 under Sections 21, 29, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Lopoke, District Amritsar Rural.

2. Learned counsel for the petitioner inter alia submits that the petitioner has been languishing in custody since 26.01.2022 and even though challan was presented on 24.07.2022 followed by framing of charges on 26.07.2022, only 1 prosecution witness had been examined so far despite issuance of bailable warrants time and again to secure the presence of witnesses. Learned counsel, while placing reliance upon a

judgment rendered by 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 submitted that the petitioner cannot be made to suffer incarceration for no fault of his, but for reasons attributable only to the prosecution since all the prosecution witnesses in the case in hand are official witnesses, who for reasons best known to them, have not been appearing before the Court to get their evidence recorded. It has further been submitted that the petitioner has clean antecedents as he is not involved in any other criminal case much less under the NDPS Act. A prayer has therefore, been made for extending the concession of bail to the petitioner, as his further incarceration would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has submitted that the petitioner along with the co-accused was nabbed along with 750 grams of Heroin, which has been classified as commercial under the NDPS Act. However, learned State counsel, on instructions, has not been able to dispute that the trial has come to a virtual standstill for reasons attributable to the prosecution and prosecution alone. Learned State counsel, on further instructions, has also not been able to dispute that the petitioner is not involved in any other criminal case much less under the NDPS Act.

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

5. The petitioner has now been in custody since 26.01.2022 and there is no likelihood of the trial concluding in the near future as only 1 witness out of the 9 cited by the prosecution has been examined till date. In the facts and circumstances, as enumerated hereinabove, this Court, thus, deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

6. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

February 5, 2024
rps

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