



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42998 of 2024
Date of decision: 06.09.2024

Gurtaj Singh @ Taj

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Amandeep Singh, Advocate for
Mr. SPS Aulakh, Advocate for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J (ORAL)

1. Petitioner is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) in case FIR No.91 dated 25.04.2022 under Section 22/61/85 of NDPS Act, 1985, registered at Police Station City Samana, District Patiala.

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and 4000 loose intoxicant tablets containing tramadol hydrochloride were shown to have been effected from a polythene bag, which he was carrying with him. Learned counsel further submits that the petitioner being innocent is evident from the fact that he does not have any criminal antecedents much less ever being booked under the provisions of NDPS Act. It has further been argued by learned counsel that even though the petitioner

was arrested almost two and half years back on 25.04.2022, however, till date only

two prosecution witnesses out of 20 cited have been partly examined even though challan was presented on 17.10.2022 and charges framed on 20.11.2023. He further submits that the trial has been inordinately delayed on account of reasons not attributable to him but to the prosecution, hence he cannot be made to suffer incarceration as it compromises with his right to speedy trial and personal liberty as guaranteed under Constitution of India.

3. Per contra, learned State counsel, on instructions from ASI Jaipal Singh, has not been able to dispute the stage of trial. It has also not been disputed that the challan was presented almost two years back on 17.10.2022 and charges thereafter framed on 20.11.2023. However, learned State counsel has submitted that the recovery effected from the petitioner is huge and has been classified as commercial under the NDPS Act. On a pointed query put to learned State counsel as to whether the petitioner is involved in any other criminal case under NDPS Act, he, on instructions has replied in the negative.

4. 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.”

5. 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.

6. 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.

September 06, 2024
manoj

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No