



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

302**CRM-M-43266-2024****Date of decision: 13.11.2024**

Harpreet Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in this second petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.153 dated 17.08.2022 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Lehra, District Sangrur.

2. At the outset, learned counsel for the petitioner has supplied the zimni orders, which are taken on record, wherein it stands reflected that after the withdrawal of the previous petition wherein similar relief had been sought, only one prosecution witness had been examined and on account of the repeated absence of the prosecution witnesses before the trial Court, the matter was being repeatedly adjourned. Learned counsel submits that in the circumstances, the petitioner cannot be made to languish in custody to await the appearance of the prosecution witnesses who, in the present case, are all police officials, to get their evidence recorded.



Learned counsel further submits that in identical circumstances, Hon'ble the Supreme Court in ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP(Crl.) No.6690/2022]*** had extended the concession of bail to the accused therein by dispensing with the conditions of Section 37 of the NDPS Act.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has submitted that secret information was received qua the involvement of the petitioner in drug trafficking leading to the recovery of 11 vials of cough syrup besides 390 tablets of Tramadol. Learned State counsel further submits that the recovery affected from the petitioner has been classified as commercial under the NDPS Act and hence he does not deserve to be extended the concession of bail. However, learned State counsel, on instructions, has not been able to dispute the stage of trial and the factum of the prosecution witnesses continuously absenting themselves to depose before the trial Court despite issuance of bailable/non-bailable warrants to secure their presence.

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

5. The petitioner has been in custody since 17.8.2022. It is a matter of record that the prosecution witnesses, who in the present case are police officials, have been irregular in their appearance before the trial Court. The petitioner was nabbed in the present case on the basis of suspicion. 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.”

5. 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

November 13, 2024
poonam

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No