



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

223

1.

CRM-M-45996-2023
Date of decision: May 7th, 2024
- Mukhtiar Singh
-Petitioner
- Versus
- State of Punjab
-Respondent
2.
- CRM-M-13354-2024

Rajan

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner (in CRM-M-45996-2023).

Mr. K.B. Raheja, Advocate
for the petitioner (in CRM-M-13354-2024).

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This order shall dispose of the above-mentioned petitions for grant of regular bail as they arise out of same FIR i.e. FIR No.58 dated 10.05.2022 under Sections 18, 25, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Kulgarhi, District Ferozepur.

2.
- Learned counsel for the petitioners submit that they have been falsely implicated in the instant case for having been found in possession of 10 kilograms of opium pursuant to a secret information received. Learned counsel submit that ever since they were arrested on 10.05.2022, beyond the

stage of presentation of challan, the trial has not proceeded and has come to a virtual standstill. In support, learned counsel have drawn the attention of this Court to the zimni orders, which have been annexed as Annexure P-7, wherein it stand reflected that after the challan was presented on 01.11.2022, the trial Court had been adjourning the case repeatedly. Learned counsel submit that since the petitioners have clean antecedents and are not involved in any other case, they be extended the concession of bail, more so since one of the co-accused Kuldeep Singh had already been extended the concession of anticipatory bail and co-accused Nishan Singh has already been granted the concession of regular bail. 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 have 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 not been able to dispute the submissions made by the counsel opposite that till date, charges have not been framed. It has also not been disputed that the petitioners are not involved in any other criminal case much less under the NDPS Act. However, learned State counsel, on instructions from ASI Surjit Singh, has informed the Court that recovery of 10 kilograms of opium (non-commercial quantity) was affected from the petitioners pursuant to a secret information received and hence, there was no question of they being falsely implicated in the present case.

4. On a pointed query, learned State counsel on instructions has also not been able to dispute that co-accused Kuldeep Singh and Nishan Singh have already been enlarged on bail. On a further query, learned State counsel has informed the Court that the next date fixed before the trial Court is 18.05.2024 when the charges are likely to be framed.

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

6. No doubt, a recovery of 10 kilograms of opium was allegedly affected from the petitioners, however, this Court cannot turn a blind eye to their long incarceration and also to the fact that even though challan was presented on 05.09.2022, till date charges had not been framed. 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 petitions are allowed. The petitioners be admitted to bail 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.

8. Needless to say, in case the petitioners misuse the concession of bail granted to them, the State would be at liberty to seek cancellation of the same.

May 7th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned

:

Yes

Whether reportable

:

No