

2024:PHHC:166430



234.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-49416-2024
Date of decision: 12.12.2024

Gurmeet RamPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. K.B.S. Mann, Advocate, for the petitioner.
Mr. Amit Rana, Senior DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case FIR No.287, dated 09.11.2022, under Section 15(c) of NDPS Act, 1985 registered at Police Station STF, Phase-4, SAS Nagar, District SAS Nagar (Mohali).

Learned counsel for the petitioner submits that the petitioner was allegedly nabbed on suspicion by the police while he along with the co-accused were driving in a car and thereafter, recovery of 120 kgs of poppy husk was effected (90 kgs of poppy husk was shown to have been effected from the rear seat of the car and remaining from the boot of the car). Learned counsel has asserted that the petitioner is innocent and has been falsely implicated in the present case. It has also been submitted that even though challan was presented on 17.03.2023 followed by framing of

charges on 15.07.2023, however, till date, only two witnesses out of 28 cited by the prosecution have been examined. Hence, the possibility of the trial concluding in the near future did not arise. A prayer has, therefore, been made in the given circumstances to enlarge the petitioner on bail in view of his long incarceration. Learned counsel has also placed reliance upon ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh (SLP(Crl.) No.6690/2022) decided on 25.01.2023*** wherein in identical circumstances, the Hon'ble Supreme Court had extended the concession of bail to the accused therein after dispensing with the bar created under Section 37 of NDPS Act.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel opposite, has not disputed the custody period of the petitioner nor has the stage of trial been disputed by the learned State counsel. Learned State counsel has further submitted, on instructions, that although no secret information was received qua the involvement of the petitioner in drug trafficking, however, when the car of the petitioner was intercepted, huge recovery classified as commercial under the NDPS Act was made and that too after due compliance of the mandatory provisions of NDPS Act. Learned State counsel has also brought to the notice of this Court, on instructions, that the petitioner is also facing trial in one other case under the NDPS Act. However, he is on bail in the said case as the recovery effected from him in that case was 12 kgs of poppy husk. Learned State counsel while not disputing the stage of the trial has submitted that delay in the conclusion of trial has not been on account of lackadaisical approach of the prosecution witnesses but on account of the

fact that on a number of dates, case could not be taken up before the trial Court on account of a huge number of cases being listed on the said date.

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

It has not been disputed that the petitioner is in custody for more than 2 years after being arrested on 09/11/22, and the trial has been proceeding at a snail's pace. Although the recovery effected from the petitioner indeed is classified as commercial under the NDPS Act, however, in view of the fact that conclusion of trial has been delayed on account of reasons not attributable to the petitioner, this Court deems it fit to enlarge him on bail as further incarceration would amount to compromising with his right to a speedy trial as envisaged under Article 21 of the Constitution of India.

Accordingly, the instant petition is allowed and the petitioner be admitted to bail on him 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.

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

December 12, 2024
sanjeev

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