



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

207

CRM-M-54403-2023
Date of decision: September 10th, 2024

Jaspal Singh @ Jagga
.....Petitioner

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Munish Thakur and Mr. L.S. Bhullar, Advocates
for the petitioner.

Mr. Navdeep Singh, Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.187 dated 09.09.2022 under Sections 22(C) and 29 of the NDPS Act registered at Police Station City Budhlada, District Mansa.

2. Learned counsel for the petitioner submits that petitioner's false implication in the present case is evident from the fact that firstly, totally unbelievable version has been brought in the FIR in question that the petitioner was nabbed on suspicion when he was moving around in suspicious circumstances at the Bus Stand with a bag, which was unzipped and contained 17400 tablets; second, there was non-compliance of the mandatory provisions of the NDPS Act as neither any offer was given for getting the person of the petitioner as well as the bag searched in the presence of a Gazetted Officer and third, no independent witness was joined at the time of alleged recovery. It has still further been argued by the learned counsel that although challan was presented

on 20.12.2022 followed by framing of charges on 03.02.2023, however, even after 1½ years, only one prosecution witness out of ten has been examined and the case is being adjourned repeatedly before the trial Court. Learned counsel while placing the reliance on *Dheeraj Kumar Shukla's case (supra) Vs. State of Uttar Pradesh (SLP(Crl.) No.6690/2022) decided on 25.01.2023* has submitted that in the circumstances, the petitioner, who has no other criminal antecedents, cannot be made to languish in custody for an indefinite period.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite has submitted that it was on suspicion, the petitioner was apprehended and a huge recovery of 17400 tablets of Alprazolam were then affected from him. It has been further argued by the learned State counsel that since the recovery was not affected from the personal search of the petitioner, there was no question of compliance of Section 50 of the NDPS Act much less of an offer to the petitioner to get himself searched in the presence of a Gazetted Officer. Learned State counsel has, however, not been able to controvert the stage of trial and has further also not disputed that other than the present case, the petitioner is not involved in any other criminal case.

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

5. The petitioner has been in custody since 09.09.2022. The trial is unlikely to conclude in the near future.

6. Hon'ble Supreme Court in *Dheeraj Kumar Shukla's case (supra)* 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.”

7. 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.
8. Accordingly, the instant petition is allowed. Petitioner 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.
9. Needless to say, 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 10th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned

:

Yes

Whether reportable

:

No