

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

CRM-M No.57837 of 2022 (O&M)

Date of decision: 12th February, 2024

Nachhtar Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

CRM No.26581 of 2023

In view of the averments made in the application and in the interest of justice, the same is allowed as prayed for and the zimni orders are taken on record.

CRM-M No.57837 of 2022

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.102 dated 07.09.2021 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Talwandi Chaudhrian, District Kapurthhala.

2. Learned counsel for the petitioner inter alia contends that a false recovery of 240 intoxicant tablets containing salt Etizolam was

planted upon him when he was allegedly intercepted on 07.09.2021 on suspicion. Learned counsel submits that on 14.10.2021, he was extended the concession of interim bail by this Court, and thereafter, he surrendered back on 05.07.2022, however, during the period while he was on interim bail, he was neither involved in any other criminal case nor had he misused the said concession of interim bail in any manner. Learned counsel has submitted that after the challan was presented on 07.04.2022, it was followed by the framing of charges on 05.07.2022, however, it was a matter of record that till date not even a single prosecution witness had been examined. In support, learned counsel has placed on record zimni orders of the trial Court after framing of charges. Learned counsel submits that in the circumstances, the petitioner cannot be made to languish in custody for no fault of his. He has submitted that in almost identical case titled as **‘Dheeraj Kumar Shukla Vs. State of Uttar Pradesh’ (SLP(Crl.) No.6690/2022) decided on 25.01.2023**, Hon'ble the Supreme Court had granted the concession of bail.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Maninderjeet Singh, has not been able to controvert the submissions qua the trial having come to a virtual standstill after the charges were framed on 05.07.2022. On a pointed query put to the learned State counsel as to whether the petitioner was involved in any other criminal case, he on instructions, has replied in the negative,

though he has submitted that in the year 2013 a case under the NDPS Act was indeed registered against the petitioner but that was for having been found in possession of some narcotic substance, which however had been classified as ‘small’ quantity under the Act.

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

5. The petitioner has now been in custody since 09.09.2021 and keeping in view the slow progress of the trial, there is no likelihood of it concluding in the near future.

6. 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.”

7. In the facts and circumstances as enumerated hereinabove and the observations made by Hon’ble the Supreme Court in ***Dheeraj Kumar Shukla’s case (ibid)***, this Court deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and

the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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 add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

February 12, 2024
rps

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