



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

220

CRM-M-61303-2023**Date of decision: May 14, 2024**

SANDEEP SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Harneet Singh Oberoi, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab
with ASI Gurcharan Singh.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition is the third petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.0089 dated 01.09.2021 (Annexure P-1) under Sections 22/25/29/27/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Joga, District Mansa.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 01.09.2021. While drawing the attention of this Court to the FIR in question, which has been annexed as Annexure P-1, learned counsel has submitted that the petitioner was allegedly apprehended on suspicion and a recovery of 4870 tablets of Tramadol then planted upon him. Learned counsel has submitted that the petitioner has no criminal antecedents, much less being involved in any case under the NDPS Act. After the challan was presented on 18.02.2022, charges were framed on 08.04.2022, however, it was a matter of record that on as many as 36 occasions, the case had to be adjourned on account

**CRM-M-61303-2023****-2-**

of the non-appearance of the prosecution witnesses, who in the instant case, are all officials.

3. Learned counsel has further submitted that in view of the irregular appearance of the prosecution witnesses as on date, only 10 prosecution witnesses have been examined out of the 31 cited, hence, there is no likelihood of the trial concluding in the near future and the petitioner thus cannot be made to languish in custody for reasons not attributable to him but to the prosecution and prosecution alone. Learned counsel, in support, has placed on reliance on ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP(Crl.) No.6690/2022]***, wherein, in almost identical circumstances, Hon'ble the Supreme Court had granted the concession of bail to the accused even though the recovery effected from him had been classified as 'commercial'.

4. *Per contra*, learned State counsel, while opposing the prayer made by the counsel opposite, on instructions, has not disputed the submissions made by the counsel opposite *qua* only 10 prosecution witnesses having been examined by the prosecution till date and as many as 36 adjournments sought by the prosecution. He, however, submits that the recovery effected from the petitioner i.e. 4870 tablets of Tramadol has been classified as 'commercial' under the NDPS Act, further, co-accused Dharam Singh, who was travelling with the petitioner at the relevant time, was also apprehended along with 21000 intoxicant tablets.

5. On a further query put to the learned State counsel as to whether the petitioner has any criminal antecedents, he, on instructions, has replied in the negative.

**CRM-M-61303-2023****-3-**

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

7. The Hon'ble 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.”

8. 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.

9. 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.

10. Needless to add here, in case the petitioner is found misusing the concession of bail, the State would be at liberty to approach this Court to seek cancellation of bail to him.

May 14, 2024*Jaspreet Kaur***(MANJARI NEHRU KAUL)****JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No