

245 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64443-2023

Decided on : 08.01.2024

Raja Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rahul Rampal, Advocate
for the petitioner.

Mr. Jiteshwar Singh, AAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

1. This is the second petition filed by the petitioner seeking concession of regular bail in case FIR No.35 dated 28.02.2022 under Sections 15(c)/25/27/29 of NDPS Act, 1985 registered at Police Station Talwandi Sabo District Bathinda.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner has been in custody since 03.08.2022 in the case at hand; he was nominated as an accused on the basis of disclosure statement allegedly suffered by co-accused Jagjeet Singh @ Kaka, Tarsem Singh and Jasvir Singh @ Sira from whom recovery of 697 kgs of poppy husk was effected. Learned counsel submits that the progress of the trial has been stalled on account of non-appearance of the prosecution witnesses after the charges were framed on 05.09.2022. In support, learned counsel has drawn the attention of this Court to

the zimni orders annexed as Annexures P-3 to P-8 wherein it stand reflected that time and again, the case is being adjourned either on account of non-appearance of prosecution witnesses or on request made by the prosecution itself. It has been further submitted that as on date only 01 prosecution witness out of the 20 cited stands examined, hence, there is no likelihood of the trial concluding in the near future.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not been able to dispute that the petitioner was nominated as an accused on the basis of disclosure statement suffered by the co-accused from whom recovery of 697 kgs poppy husk was effected. Learned State counsel has also not disputed that only 01 prosecution witness out of the 20 cited, stands examined. He has also not been able to dispute that it is a case, which has been adjourned time and again due to non-appearance of the prosecution witnesses or on request made by the prosecution itself.

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

5. The petitioner has been in custody since 03.08.2022. The trial is unlikely to conclude in the near future as only one prosecution witness has been examined after the charges were framed on 05.09.2022.

6. 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.”

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. The petitioner be admitted to bail on his 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.

9. 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.

08.01.2024
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(MANJARI NEHRU KAUL)
JUDGE

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