IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-3933-2025
Date of decision: 29.04.2025

Lakhwinder Singh @ Lakhu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Deepak Arora Advocate
for the petitioner.

Mr. Amit Rana, Sr.DAG, Punjab
for the respondent-State.

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MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.168 dated 06.07.2022, registered under Sections 22/61/85 of NDPS Act, registered at Police Station Jandiala, District Amritsar Rural on the ground of inordinate delay in the conclusion of the trial.

2. Learned counsel for the petitioner contends that after the petitioner was arrested on 06.07.2022, on suspicion, recovery of 4995 tablets of Tramadol was allegedly effected from him. Learned counsel has contended that it is a case of false implication as the petitioner has no previous criminal antecedents. Furthermore, it has been asserted that after the challan was presented on 28.07.2023, charges were framed on 09.10.2023, however till date only one prosecution witness out of nine cited had been examined. In

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support, learned counsel has drawn the attention of this Court to the zimni order which has been annexed as Annexure P-2 with the petition.

3. Learned counsel while placing reliance upon ***Rabi Prakash Vs. The State of Odisha : 2023 LiveLaw (SC) 533*** and ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP(Crl.) No.6690/2022]*** has asserted that in almost identical facts and circumstances, Hon'ble Supreme Court had done away with the bar under Section 37 of the NDPS Act and extended the concession of bail to the accused wherein on account of the inordinate delay in the conclusion of the trial and for reasons attributable to the prosecution and prosecution alone. It has also been submitted that after the petitioner was arrested on 06.07.2022, he was extended the concession of interim bail on 08.09.2022 on account of the non presentation of challan. Thereafter the petitioner surrendered back as soon as the challan was presented on 28.07.2023. The petitioner never misused the concession of interim bail.

4. *Per contra,* learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from ASI Hardial Singh has not disputed the custody period of the petitioner nor has it been disputed that only one prosecution witness has been examined so far. It has also not been disputed by learned State counsel that the case is being adjourned before the trial Court continuously on account of the repeated absence of the prosecution witnesses even though even on a few dates, bailable warrants had been issued to secure their presence.

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

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huge recovery of 4995 tablets of Tramadol were made from the petitioner after he was nabbed on suspicion by the police.

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

7. The petitioner has been in custody for close to three years having been arrested on 06.07.2022. The possibility of the trial concluding in the near future seems remote as the trial has been proceeding at a snail's speed for reasons attributable only to the continuous absence of the prosecution witnesses who in the present case are all police officials.

8. 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."*

9. 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.

10. Accordingly, the instant petition is allowed. Petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

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11. 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.

12. 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.

29.04.2025 (**MANJARI NEHRU KAUL**)
mamta **JUDGE**

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

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