



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

204

CRM-M-55542-2024

Date of decision: 18.01.2025

Balwinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Jaspreet S. Harika, Advocate for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (third) petition is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in case FIR No.303 dated 18.09.2022 under Sections 22 and 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') (Sections 25 and 29 of the NDPS Act added lateron) registered at Police Station Derabassi, District SAS Nagar.

2. Learned counsel for the petitioner submits that on the basis of suspicion, the police intercepted co-accused Ranjit Singh and Satinder Kumar @ Kakka and thereafter allegedly recovered 528 tablets of Tamadol from them. Learned counsel has submitted that it is not the case of the prosecution that the petitioner was accompanying either of those two co-accused or was in any manner related to them, however, strangely a disclosure statement was extracted from the co-accused wherein they claimed to have procured the recovered contraband from the petitioner. Learned counsel has argued that the disclosure statement



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on the basis of which the petitioner has been arraigned as an accused in the present case holds weak evidentiary value and this needs to be appreciated in the light of no recovery of any contraband having been made from the petitioner when he was arrested by the police on 26.01.2023. It has been further argued by the learned counsel that even the trial has been progressing very slowly with only 07 prosecution witnesses out of the 18 cited having been examined so far even though the challan was presented on 15.03.2023 and charges framed on 06.06.2023. Learned counsel has placed 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]***, wherein Hon'ble the Apex Court in almost identical circumstances had extended the concession of bail to the accused on account of inordinate delay in the conclusion of the trial even though the recovery effected had been classified as 'commercial' in the said cases; Hon'ble the Apex Court had dispensed with the conditions of Section 37 of the NDPS Act in the said cases.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Kuldeep Singh, has not disputed the custody period of the petitioner nor has it been disputed that only 07 prosecution witnesses out of the 18 have been examined so far.

4. On a pointed query, learned State counsel, on instructions, has not controverted that after the petitioner was allegedly nominated as an accused in the disclosure statement suffered by the co-accused, no



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recovery of any contraband, much less Tramadol, was effected from him. However, it has been submitted that the petitioner has earlier also been booked in a case under the NDPS Act.

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

6. The petitioner has been in custody for almost 02 years having been arrested on 26.01.2023; no recovery of any contraband was effected from the petitioner pursuant to the disclosure statement made by the co-accused from whom the alleged intoxicant tablets were recovered. There is no likelihood of the trial concluding in the near future as only 07 prosecution witnesses out of the 18 cited, have been examined so far. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. 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.

8. 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.

18.01.2025

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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