

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

CRM-M No.33808 of 2024
Date of decision: 23rd July, 2024

Manpreet Singh @ Koch

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Prateek Pandit, Advocate for the petitioner.

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

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.214 dated 13.09.2022 under Sections 18, 18(b), 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Shahkot, District Jalandhar (Rural).

2. Learned counsel for the petitioner submits that the petitioner is seeking the concession of regular bail on the ground of parity with the co-accused, who has since been extended the concession of bail by this Court vide order dated 08.07.2024 (Annexure P-3). It has been submitted by the learned counsel that after the charges were framed on 20.04.2023, the case had been repeatedly adjourned on account of the non-appearances of the prosecution witnesses, who in the instant case, are all police officials. It has been further submitted

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that despiteailable warrants issued to secure the presence of the prosecution witnesses, none had appeared before the trial Court to get their evidence recorded. A prayer has, therefore, been made that in the circumstances, the petitioner cannot be made to languish in custody as it would amount to his life and liberty being compromised under Article 21 of the Constitution of India.

3. On a pointed query, learned counsel has submitted that the petitioner is not involved in any other case under the NDPS Act.

4. Per contra, learned State counsel has vehemently opposed the prayer and submissions made by the counsel opposite, citing the huge recovery of 3 kgs of Opium from beneath the driver's seat of the car in which the petitioner was travelling. It has been argued by the learned State counsel that the petitioner was well aware of the contraband being transported in the said car. However, learned State counsel, on instructions from SI Gurnam Singh, has not been able to dispute that despite the charges being framed on 20.04.2023 and the trial Court repeatedly issuingailable warrants to secure the presence of prosecution witnesses, not a single one out of the 13 cited witnesses had been examined till date.

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

6. It is well documented that in a number of cases, particularly those registered under the NDPS Act, accused have been granted bail



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by courts due to their prolonged incarceration resulting from the consistent non-appearance of prosecution witnesses. On account of this recurring issue, on an earlier occasion, this Court had directed the Director General of Police (DGP), Punjab to appear and address the problem. The DGP had assured this Court that, moving forward, such complaints would cease and that prosecution witnesses, particularly police officials, would ensure their presence on each and every date before the trial Court in cases registered under the NDPS Act.

7. The continued absence of prosecution witnesses in such cases is alarming, especially given the severe drug menace in this region. If prosecution witnesses continue to be absent without valid reasons, it severely undermines the efforts purportedly being made to combat this menace. Furthermore, since the trial has been delayed due to the repeated and continuous non-appearance of the prosecution witnesses, the State cannot justifiably oppose the prayer of the petitioner for bail. The petitioner cannot be left to languish in custody indefinitely while awaiting the appearance of prosecution witnesses, as this would unquestionably violate his right to life and liberty, as well as his right to a speedy trial under Article 21 of the Constitution of India.

8. Hon'ble the Supreme Court in '***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh***' (SLP(Crl.) No.6690/2022) decided on **25.01.2023**, on account of the long incarceration of an accused,



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extended the concession of bail in a case under the NDPS Act in the following terms:-

“.... 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. The petitioner has been in custody since 13.09.2022, and given the facts and circumstances as enumerated hereinabove, there is no foreseeable conclusion to the trial in the near future. Resultantly, this Court deems it appropriate to allow the instant petition by dispensing with the conditions of Section 37 of the NDPS Act. The instant petition 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.

**(MANJARI NEHRU KAUL)
JUDGE**

July 23, 2024

rps

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