

2025:PHHC:058630



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-19731-2024
Reserved on: April 29, 2025
Pronounced on: May 06, 2025

RANJEET SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by: Mr. Saurav Bhatia, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 439 Cr.P.C. seeking the release of the petitioner on regular bail in case FIR No.41 dated 09.03.2023 under Sections 22 and 29 of the NDPS Act, 1985, registered at Police Station Sadar, District Ludhiana.

2. In addition to the submissions made by the learned counsel for the petitioner *qua* the false implication of the petitioner in the present case, *inter alia* it has been also urged that the petitioner's continued incarceration (judicial custody) is illegal, as it is not supported by any formal order passed by learned trial Court after the presentation of the challan. Learned counsel for the petitioner submits that although the chargesheet in the present case was filed on 18.08.2023, the petitioner has been in judicial custody without any formal order of remand being passed thereafter by the learned trial Court.



3. Drawing the attention of this Court to the *zimni* orders annexed as Annexure P-7, learned counsel for the petitioner contends that the learned trial Court failed to pass specific and formal orders extending the judicial custody of the petitioner from time to time, thereby rendering his continued incarceration illegal. In support of his submissions, learned counsel has placed reliance on the judgment passed by the Hon'ble Supreme Court in ***Ram Narayan Singh vs. The State of Delhi and others, 1953 CrLJ 1113***, wherein it was held that in the absence of a valid order of remand, continued detention of an accused would be illegal. He has further relied upon the judgments of this Court in the cases of ***Balwant Singh vs. Directorate of Enforcement, CRWP-9783-2024*** and ***Chander Bhan vs. State of Haryana, CRWP2215-1990*** to substantiate the legal necessity of a valid remand order.

4. It has also been submitted that after the petitioner was arrested on 09.03.2023, only 6 prosecution witnesses out of the 13 have been examined so far; it was a case of chance recovery, wherein a recovery of 14000 tablets of Tramadol was allegedly made from both the accused including the petitioner. It has been submitted that it is also a matter of record that the prosecution witnesses have been irregular in their appearances before the learned trial Court on different dates of hearing and therefore, the possibility of the trial concluding in the near future does not arise. In the facts and circumstances, the petitioner, therefore, deserves to be enlarged on bail.



5. *Per contra*, learned State counsel, has vehemently opposed the prayer and submissions made by the counsel opposite. It has been submitted, on instructions, that the present ground *qua* the absence of any specific and formal orders extending the judicial custody of the petitioner from time to time, was never raised by the petitioner either before the learned trial Court or before this Court until the present date of hearing. It has been further submitted, on instructions, that the petitioner was arrested on 09.03.2023 and duly produced before the Duty Magistrate on 10.03.2023, whereupon he was first remanded to police custody and thereafter, to judicial custody.

6. Learned State counsel, on instructions, has not disputed that as on date, only 6 prosecution witnesses out of the 13 stand examined, however, it has been contended by the learned State counsel, on instructions, that the petitioner was apprehended at the spot from a public place, and a large commercial quantity of 14000 tablets of Tramadol was recovered from him. Learned State counsel also submits that this is not the first time, the petitioner has been involved in a case of identical nature as it is a matter of record that even previously, he has been booked once in a case under the NDPS Act.

7. On a pointed query put to the learned State counsel with respect to the contents of the *zimni* order, wherein it stands indeed reflected that the trial has been prolonged on account of the repeated absence of the



prosecution witnesses, who in the present case, are all police officials, he, on instructions, has not been able to controvert the same.

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

9. It is not disputed that the petitioner has been in custody since 09.03.2023. He was initially remanded to police custody upon production before the learned Magistrate on 10.03.2023 and was subsequently remanded to judicial custody. Chargesheet was presented in the present case on 18.08.2023. The grievance raised is that subsequent to the filing of the challan, the learned trial Court did not pass any formal or express order extending the judicial remand of the petitioner. On a perusal of the *zimni* orders placed on record, it does appear that no specific remand orders were passed on several occasions, even as productions orders were issued.

10. Although it is correct that the said issue was not raised either before the learned trial Court or before this Court, the same in the considered opinion of this Court, cannot be ignored in the face of continuing deprivation of liberty without adherence to the mandate of law. The power to remand an accused to judicial custody is a crucial judicial function that must be exercised with due diligence and in strict compliance with the procedure established by law. A lapse in this regard strikes at the very root of personal liberty.



11. What is even more disconcerting is that despite repeated issuance of production warrants on multiple dates - specifically on 15.09.2023, 31.10.2023, 05.06.2024, 23.07.2024, 18.09.2024, 29.10.2024, 12.12.2024, 07.01.2025 and 22.01.2025 – the jail authorities have consistently failed to produce the petitioner before the learned trial Court. This persistent non-compliance has resulted in the prolonged incarceration of the petitioner without the benefit of a valid remand order or even the opportunity to be heard before the Court periodically, as required under the law.

12. While it is true that the mere omission to pass a formal remand order, does not, by itself, entitle an accused to bail, the cumulative effect of the long period of incarceration, the consistent failure of the authorities to comply with production warrants, and the absence of valid remand orders cannot be overlooked.

13. In view of the above facts and circumstances, particularly the illegal and unremedied custody since the presentation of the challan and the failure of the authorities to ensure production of the petitioner before the learned trial Court despite repeated directions, this Court is of the considered opinion that the continued detention of the petitioner is unjustified.

14. In view of the foregoing, this Court deems it fit to allow the instant petition, and extend the concession of regular bail to the petitioner.



15. The petition as such is allowed, and the petitioner be 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.

16. 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 06, 2025

Jaspreet Kaur

(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*