



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

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CRM-M-31180-2024

Date of decision: 29.10.2024

HANSRAJ ALIAS BHOLU

....Petitioner

V/s

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Manoj Tanwar, Advocate, for the petitioner.

Mr. Yuvraj Shandilya, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in this second petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.488 dated 31.12.2022 under Sections 20/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Beri, District Jhajjar.

2. Learned counsel for the petitioner submits that the petitioner has been in custody for close to 02 years having been arrested on 31.12.2022 however till date not even a single prosecution witness out of the 25 cited has been examined. Hence, the petitioner cannot be made to languish in jail for an indefinite period moreso when it is the prosecution which has been seeking adjournments; on a couple of dates even though bailable warrants were issued to secure the presence of the prosecution witnesses yet they had failed to appear for getting their evidence recorded.

It has been further argued by the learned counsel that the petitioner is not involved in any other criminal case much less under a case under the NDPS



Act which further lends credence to his false implication in the present case wherein a recovery of 1 Kg. 700 grams of *Charas* was allegedly affected from the conductor's side of the vehicle which was being driven by the petitioner. A prayer has, therefore, been made for enlarging the petitioner on bail subject to any stringent conditions, as there is no likelihood of the trial concluding in the near future. Learned counsel for the petitioner places reliance upon a judgment of the Hon'ble Supreme Court in *Dheeraj Kumar Shukla Vs. State of Uttar Pradesh (SLP(Crl.) No.6690/2022) decided on 25.01.2023*.

3. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, has not disputed the custody period of the petitioner and even the stage of trial. However, it has been submitted by the learned State counsel that a secret information was received qua the involvement of the petitioner in drugs smuggling. Thereafter, on being apprehended, the aforesaid recovery i.e. 1 Kg. 700 gms. of *Charas* was affected from the conductor's side of the vehicle which was being driven by none other than the petitioner, which is higher than the minimum classified as commercial i.e. 1 Kg. under the NDPS Act. Learned State counsel on further instructions has also not disputed that the case has been adjourned by the trial Court on some of the dates on account of the non-appearances of the prosecution witnesses even though they had been summoned by way of bailable warrants.

On a further query, learned State counsel has not disputed, on instructions that the petitioner has no previous criminal antecedents.



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

5. The alleged recovery was effected on 31.12.2022 when the petitioner was also arrested; thereafter challan was presented on 19.12.2023 followed by framing of charges on 06.04.2024. It is, thus, obvious that the trial has been proceeding at a very slow pace, coupled with the fact that it has now been prolonged on account of reasons attributable not to the petitioner but to the prosecution and prosecution alone. The next date fixed before the trial Court is 12.11.2024 when some of the prosecution witnesses are likely to be examined.

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 fit to extend the concession of bail to the petitioner.

8. Accordingly, the instant petition is allowed and 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.

October 29, 2024
poonam

(MANJARI NEHRU KAUL)
JUDGE

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