



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

CRM-M-4696-2025

Date of Decision: 31.01.2025

AVTAR SINGH @ KALA

...Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Harmanpreet Singh, Advocate for the petitioner.

 Mr. Amit Rana, Senior DAG, Punjab.

MANJARI NEHRU KAUL, J. (Oral)

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of regular bail to the petitioner in case FIR NO. 97 dated 21.08.2022 under Section 21 of the NDPS Act, 1985, registered at Police Station Navi Baradari, District Police Commissionerate Jalandhar.

2. Learned counsel for the petitioner submits that the petitioner has been languishing in custody since 21.08.2022, in an apparent case of false implication; even though challan was presented way back on 15.02.2023, followed by framing of charges on 03.04.2023, yet till date only 01 prosecution witness out of 12 cited has been examined. Learned counsel for the petitioner contends that the petitioner deserves to be extended the concession of bail as the delay in the trial is due to the irregular appearance of the prosecution witnesses who in the present case are police officials. It has been further submitted that the petitioner along with co-accused was allegedly intercepted on suspicion while they both were going on a motor-



cycle; the petitioner was allegedly pillion-riding. Learned counsel further submits that the motor-cycle on which the petitioner was going with the co-accused is not even registered in his name coupled with the fact that the alleged recovery of 255 gms of heroin made from the toolbox of the motor-cycle, is just marginally higher than the minimum classified as commercial quantity under the Act.

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 nor has it been disputed that the alleged recovery of 255 gms of heroin was made from the toolbox of the motor-cycle, which is not registered in the name of the petitioner. However, learned State counsel has submitted that out of the 12 prosecution witnesses cited, 04 have been given up, with 07 remaining to be examined. On further instructions, it has been submitted that the next date fixed before the trial Court is 05.02.2025 when in all likelihood some of the remaining witness would be examined. Learned State counsel has also brought to the notice of this Court that the petitioner stands convicted in one case under the NDPS Act, however, in the said case, recovery effected from the petitioner was of small quantity and he had already served out his sentence on 14.09.2024.

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

5. The petitioner has been custody since 21.08.2022, the alleged recovery made from the petitioner is just marginally higher than the minimum classified as commercial under the Act. The petitioner has been in



custody for almost 2 ½ years having been arrested on 21.08.2022. The trial has been prolonged on account of the repeated non-appearances of the prosecution witnesses, who in the present case are all police officials.

6. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner. 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.

7. 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 same.

(MANJARI NEHRU KAUL)
JUDGE

31.01.2025

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