



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

232

CRM-M-6077-2025

Date of decision: 13.02.2025

Abdul Khan @ abdul Sattar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Satnam Singh Gill, Advocate
for the petitioner.

Mr. Shiva Khurmi, AAG, 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.26 dated 21.01.2023 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') (Section 21 of the NDPS Act added lateron) registered at Police Station Zirakpur, District SAS Nagar, Mohali.

2. Learned counsel for the petitioner submits that the petitioner has been languishing in custody since 21.01.2023 after he was allegedly nabbed with 3000 capsules of Lomotil. Learned counsel has argued that it is evidently a case of false implication as it is a matter of record that the petitioner has no previous criminal antecedents, much less ever been involved in a case under the NDPS Act. It has also been argued by the learned counsel that after the charges were framed way back on 18.09.2023, the trial had come to a virtual standstill with only



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01 prosecution witness out of the 11 having been examined till date. Hence, it has been argued by the learned counsel for the petitioner that the petitioner cannot be made to suffer incarceration for no fault of his as it is a matter of record that the case is being adjourned before the learned Trial Court for reasons attributable to the prosecution. In support, 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 Raj Kumar, has not disputed the custody period of the petitioner nor has it been disputed on instructions that the petitioner has no previous criminal antecedents. However, learned State counsel on instructions submits that while only 01 prosecution witness has been examined so far, 01 witness has been given up with 09 remaining to be examined. It has been submitted that the next date fixed before the learned Trial Court is 18.02.2025 when in all likelihood some more witnesses are likely to be examined. On further instructions, it has not been disputed that it is on account of repeated absence of the



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prosecution witnesses that the case is being adjourned by the learned Trial Court.

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

5. The petitioner has been in custody for more than 02 years having been arrested on 21.01.2023. 09 prosecution witnesses still remain to be examined and the trial has been delayed on account of the repeated non-appearances of the prosecution witnesses. Undisputedly, the petitioner is not involved in any other criminal case. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

6. 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.

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 the same.

13.02.2025

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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