

2025:PHHC:081235



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-8745-2025

Date of decision: July 08, 2025

ASHISH

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sanpreet Sandhu, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. A.G., Haryana.

MANJARI NEHRU KAUL, J.(ORAL)

1. The instant petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case FIR No.400 dated 03.07.2022 under Sections 20, 25, 27A of the the Narcotic Drugs and Pyschotropic Substances Act, 1985, registered at Police Station Kharkhoda, District Sonapat (Annexure P-1).

2. Learned counsel appearing for the petitioner, at the outset, submits that the constitutional right of the petitioner to a fair and speedy trial has been compromised for reasons not attributable to him, but to the prosecution witnesses, who, for reasons best known to them, have been absenting themselves before the learned trial Court. While placing reliance on *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]*, it has been argued by the learned counsel that in almost identical circumstances, the Hon'ble Supreme Court, while doing away with the bar created under Section 37 of the NDPS Act, had granted bail to the



accused therein, even though the recovered contraband had been classified as 'commercial' under the NDPS Act. Learned counsel has submitted that the petitioner also deserves similar relief as it is a matter of record that after the challan was presented on 28.09.2022, charges were framed on 28.04.2023, however, till date, only two prosecution witnesses had been completely examined while one had been partly examined. Hence, the possibility of the trial concluding in the near future did not arise.

3. On a pointed query put to the learned counsel as to whether the petitioner has any previous criminal antecedents, he has categorically replied in the negative.

4. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, has not disputed that the petitioner has been in custody since 03.07.2022 and as many as 38 prosecution witnesses still remain to be examined. However, it has been argued by the learned State counsel, on instructions, that the petitioner was intercepted along with the co-accused, following a tip off regarding their involvement in drug trafficking; a recovery of 137.570 kgs of *ganja* was thereafter effected from the car, in which both the petitioner and the co-accused were travelling. It has been submitted that the recovery of the contraband in the present case was made after due compliance of the mandatory provisions of the NDPS Act.

5. On being pointedly asked about the repeated absence of the prosecution witnesses in the present case, learned State counsel has not been



able to controvert the same, however, it has been submitted that a perusal of the *zimni* orders, which have been annexed along with the status report of the Deputy Commissioner of Police, West, Sonipat dated 16.05.2025, filed in the Registry of this Court, reveals that on some of the dates, the case could not be taken up by the learned trial Court on account of an application moved on behalf of the co-accused for personal exemption. On a further query, learned State counsel, on instructions, has not disputed that the petitioner has no previous criminal antecedents.

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

7. The Hon'ble Supreme Court in ***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]***, extended the concession of bail to an accused, who had been allegedly apprehended with contraband classified as 'commercial' under the NDPS Act only on account of his long incarceration and the delay in the trial not being attributable to him. The Hon'ble the 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.”



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8. The case of the petitioner is, therefore, squarely covered by the ratio of law laid down by the Hon'ble Supreme Court in ***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]***.

9. In view of facts and circumstances 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.

10. However, learned State counsel has prayed that the petitioner be put to stringent conditions so as to ensure his regular appearance before the learned trial Court on each and every date of hearing.

11. In view of the prayer made, the Court concerned, while granting the bail, shall impose any such stringent conditions upon the petitioner so as to ensure his presence on each and every date of hearing before the learned trial Court concerned.

12. Needless to add, the defence as well as the prosecution shall cooperate for the expeditious conclusion of the trial and in case any misuse of the concession of bail comes to light, the State shall be at liberty to approach this Court for cancellation of bail to the petitioner.



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13. 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.

July 08, 2025
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*