



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

219

CRM-M-11124-2025

Date of decision: April 4<sup>th</sup>, 2025

Harikesh

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Mr. Abhimanu Jangra, Advocate  
for the petitioner.

Mr. Yuvraj Shandilya, Assistant Advocate General, Haryana.

**MANJARI NEHRU KAUL, J. (ORAL)**

This is the third petition filed by the petitioner seeking the concession of regular bail in FIR No.286 dated 08.04.2023 registered under Sections 20(b)(ii)(c) and 27A of the NDPS Act, 1985, at Police Station Barwala, District Hisar.

2. At the outset, a pointed query has been put to the learned counsel for the petitioner as to what is the material change in circumstances, which would warrant acceptance of his prayer for extending the concession of bail to the petitioner, learned counsel submits that identically placed co-accused have since been extended the concession of bail on grounds of the inordinate delay in the conclusion of the trial. While drawing the attention of this Court to the order (Annexure P-3), it has been asserted that the prosecution witnesses in the present case, who are all police officials, had been absenting themselves before the trial Court, which weighed with this Court while extending the concession of bail. It has been contended that the trial has been

proceeding at snail's speed as only two prosecution witnesses out of the 23 have been examined so far, even though challan was presented on 03.10.2023 and charges framed on 08.12.2023. A prayer has, therefore, been made in the facts and circumstances to extend the concession of bail to the petitioner, more so when he is not involved in any other criminal case much less under the NDPS Act.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by counsel opposite has not disputed the custody period of the petitioner nor has he disputed the stage of trial; learned State counsel has also not disputed the contents of the zimni orders, which have been annexed along with the instant petition, wherein it clearly stands reflected that the trial has been delayed primarily on account of the repeated non-appearance of the prosecution witnesses. Learned State counsel, however, has submitted that a secret information was received qua the petitioner and the two co-accused. Pursuant to the secret information, a recovery of 2.50 kilograms of *charas* was made after due compliance of all the mandatory provisions of the NDPS Act.

4. On a further query put to the learned State counsel, he, on instructions, has not disputed that the case of the petitioner is at parity with co-accused Ramesh Chander and Satbir alias Satroop, who have since been extended the concession of bail on account of inordinate delay in the conclusion of the trial.

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

6. The petitioner has been in custody since 08.04.2023. The trial is unlikely to conclude in the near future.

7. 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.”*

8. In the facts and circumstances as enumerated hereinabove, this Court deems it appropriate to allow the instant petition by dispensing with the conditions of Section 37 of the NDPS Act.

9. Accordingly, the instant petition is allowed. Petitioner be admitted to bail 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.

10. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

April 4<sup>th</sup>, 2025  
Puneet

(MANJARI NEHRU KAUL)  
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No