

2025:PHHC:083062



249.

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

CRM-M-15003-2025

Date of decision: 10.07.2025

Vijender @ Chautala

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vimal Kumar Gupta, Advocate, and
Ms. Palkin Bhardwaj, Advocate, for the petitioner.

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

MANJARI NEHRU KAUL, J. (ORAL)

1. This is second petition that has been filed under Section 483 of BNSS, 2023, for grant of regular bail to the petitioner in case FIR No.284, dated 08.07.2023, under Sections 22 and 29 of NDPS Act, registered at Police Station Purani Sabji Mandi, Rohtak.

2. Learned counsel for the petitioner submits that the petitioner has been languishing in custody since 08.07.2023 and till date, the trial has not concluded with none of the 21 prosecution witnesses having been examined yet. It has been contended that trial in fact has been proceeding at a very sluggish pace; challan was presented way back on 22.12.2023 and charges framed on 28.11.2024. However, even after framing of charges, despite the witnesses being summoned, not even a single prosecution witness out of the 21 cited has been examined. Learned counsel, therefore, submits that the petitioner cannot be made to suffer incarceration anymore

as it virtually amounts to compromising with his constitutional right to a speedy and fair trial. It has been contended that almost in identical circumstances, the Hon'ble Supreme Court in ***Rabi Prakash Versus The State of Odisha, 2023 Livelaw (SC) 533*** and ***Dheeraj Kumar Shukla Versus State of Uttar Pradesh (SLP(Crl.) No.6690/2022)***, decided on **25.01.2023** had done away with the bar created under Section 37 of the NDPS Act and extended the concession of bail to the accused therein, even though, the recovery effected from those accused had been classified as 'commercial'.

3. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed the custody period of the petitioner, nor has he disputed the stage of trial. On further query, learned counsel for the State has also not disputed that the petitioner has not been booked in any case under the NDPS Act, although it has been submitted that the petitioner is facing trial in 04 cases under the Indian Penal Code. Learned State counsel has also not disputed the contents of the zimni orders, which have been annexed with the petition, from which, it stands reflected that the delay in trial is for reasons not attributable to the petitioner.

4. Learned State counsel, however, has asserted that a secret information had been received qua the involvement of the petitioner in drug trafficking, following which, the petitioner was intercepted leading to a huge recovery of 15 bottles (100 ml each of Wincirex syrup along with

another 7 bottles (100 ml each of Wincirex-T). It has been contended that the recovery effected from the petitioner has been classified as 'commercial' and was made after due compliance of all the mandatory provisions of the NDPS Act. Learned State counsel has submitted that in case the petitioner is enlarged on bail, there is a likelihood that he could abscond leading to further delay in the trial and hence, if at all, the petitioner is admitted to bail, stringent conditions may be imposed to ensure that he does not misuse the liberty.

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

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. The petitioner's custody period has not been disputed which is more than 02 years as on date. The stage of trial has also not been disputed by the learned State counsel and a perusal of the zimni orders indeed reveal

that the trial has come to a virtual standstill for reasons not attributable to the petitioner.

8. This Court, in the circumstances, deems it fit to extend the concession of bail to the petitioner as his right to a speedy and fair trial has indeed been compromised.

9. 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, the Trial Court may impose any stringent condition as it deems fit to ensure that the liberty granted to the petitioner is not misused and also to ensure that the petitioner appears on each and every date of hearing before the Trial Court.

10. It is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

11. 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 forthwith.

(MANJARI NEHRU KAUL)
JUDGE

July 10, 2025
sanjeev

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