



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

215

CRR-921-2024**Date of decision: 03.05.2025**

Alishad

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mazlish Khan, Advocate
for the petitioner.

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

MANJARI NEHRU KAUL, J.

1. The petitioner, a child in conflict with law, is seeking setting aside of order dated 03.04.2024 passed by learned Additional District & Sessions Judge, Panipat, whereby he was declined the benefit of bail in case FIR No.426 dated 07.08.2023 under Sections 20(c)/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Sector-29, Panipat, was declined, alleging recovery of 50.80 kgs of ganja from a vehicle in which the petitioner was allegedly present.

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and has been in custody since 07.08.2023. It is further submitted that the trial has not made any substantive progress, as even the charges have not been framed till date, and therefore, the proceedings are likely to be protracted. On these grounds, it is contended that the petitioner is



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entitled to be released on bail. 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 the Supreme Court had done away with the bar under Section 37 of the NDPS Act and extended the concession of bail to the accused therein on account of his long incarceration and tardy progress of the trial.

3. *Per contra*, learned State counsel, on instructions, has vehemently opposed the prayer and submissions made by the counsel opposite. It has been submitted that the contraband recovered falls within the ambit of 'commercial quantity' and was allegedly seized pursuant to secret information indicating the involvement of the petitioner in narcotics trafficking. It is also submitted that the vehicle from which the recovery was made was bearing a forged registration number. However, the learned State counsel, on instructions, does not dispute the period of custody undergone by the petitioner or the fact that after the challan was presented on 03.02.2024, the case had come to a virtual standstill as the charges had not yet been framed in the present case.

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

5. Having heard the learned counsel for the parties and upon consideration of the overall facts and circumstances, this Court finds that the petitioner, admittedly a juvenile, has been in custody for a period exceeding 1 year and 8 months. The trial is yet to commence in



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the real sense, as even the stage of charge has not been crossed.

6. Though the quantity of contraband involved is commercial and the allegations are serious, the fact that the petitioner is a child in conflict with law and that the trial is likely to take considerable time cannot be overlooked. 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.”

7. 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. The learned Trial Court concerned while admitting the petitioner to bail may impose any such stringent conditions as it deems fit, so that the petitioner cooperates by appearing on each and every date of hearing and does not in any manner misuse the concession of bail.

8. 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.

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9. 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.

03.05.2025

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**(MANJARI NEHRU KAUL)
JUDGE**

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