

2025:PHHC:088032



213.

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

CRM-M-26917-2025

Date of decision: 18.07.2025

Nitish Kumar

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ritesh Pandey, Advocate, for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. Prayer in this petition filed under Section 483 of BNSS, 2023, is for grant of regular bail to the petitioner in case FIR No.181, dated 02.09.2021, under Sections 22, 29 of NDPS Act, registered at Police Station Civil Line Batala, District Gurdaspur.

2. Learned counsel for the petitioner submits that after the petitioner was arrested on 08.09.2021 following his name surfacing during the interrogation of co-accused, Rahul Kumar, from whom, a recovery of 500 tablets of alprozolam and 3000 tablets of tramadol, was effected. The petitioner was extended the concession of interim bail on 27.10.2022. Subsequently, he was arrested on 08.08.2023. Learned counsel has submitted that after the petitioner was arrested on 08.08.2023, the trial has

been proceeding at a snail's pace as till date, only 03 prosecution witnesses out of 11 cited have been examined, even though challan was presented on 09.10.2023. Learned counsel has asserted that the evidentiary value of the disclosure statement on the basis of which the petitioner was nominated as an accused in the present case is of a weak nature and it is only a matter of record that when the petitioner was arrested, no recovery of any contraband much less tablets of tramadol or alprozolam was made from him, which further lends credence to his false implication on the basis of purported disclosure statement made by co-accused, Rahul Kumar. It has been further submitted that co-accused, Rahul Kumar, has already been extended the concession of bail by this Court vide order dated 06.02.2025 (Annexure P-3) on the ground of prolonged trial and custody period. A prayer has, therefore, been made for extending the similar relief.

3. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, has not disputed the custody period of the petitioner nor has it been disputed, on instructions from ASI Rajbir Singh, that no recovery or any contraband was made from the petitioner after he was arrested following his name surfacing in the disclosure statement of co-accused, Rahul Kumar. However, it has been submitted by the learned State counsel that as per the disclosure statement, the petitioner was the supplier of the recovered contraband.

4. On a pointed query, learned State counsel has not disputed, on instructions, that the co-accused, Rahul, has indeed been extended the

concession of bail on account of the prosecution witnesses persistently absenting themselves before the Trial Court.

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

6. The petitioner has been in custody since 08.08.2023. It is a matter of record that the trial has been delayed on account of irregular appearance of the prosecution witnesses which in the present case are all police officials. Therefore, the petitioner cannot be held responsible for the delay in the trial and rather, his right to a speedy and fair trial has been compromised on account of persistent absence of the prosecution witnesses before the Trial Court.

7. In *Rabi Prakash (supra)* and *Dheeraj Kumar Shukla (supra)*, the Hon'ble Supreme Court, on account of inordinate delay in the conclusion of trial, had done away with the bar created under Section 37 of the NDPS Act and enlarged the accused therein on bail.

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 and 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.

10. 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.

(MANJARI NEHRU KAUL)
JUDGE

July 18, 2025
sanjeev

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