



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

209 (PROCEEDINGS THROUGH HYBRID MODE)

1.

CRM-M No.36242 of 2024
Date of decision: January 31st, 2025
- Manish Kumar

.....Petitioner
- Versus
- State of Haryana

.....Respondent
2.

CRM-M No.31101 of 2024 (O&M)
- Ajay Kumar

.....Petitioner
- Versus
- State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Hakam Singh, Advocate (through V.C.)
for the petitioner (in CRM-M-36242-2024).

Mr. Aditya Sanghi and Mr. Himanshu Garg, Advocates
for the petitioner (in CRM-M-31101-2024).

Mr. Yuvraj Shandilya, Assistant Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

CM-47974-2024 in CRM-M-31101-2024

Prayer in this application is for placing on record zimni orders
as Annexure P-6.

Application is allowed subject to just exceptions.

Annexure P-6 is taken on record.

Main cases

This order shall dispose of the above-mentioned petitions filed
for grant of regular bail to the petitioners, as they arise out of same FIR i.e.

FIR No.186 dated 20.09.2023 under Sections 22(C) and 29 of the NDPS Act, registered at Police Station Badagudha, District Sirsa.

2. Learned counsel for the petitioner in CRM-M-31101-2024 has placed on record true copy of zimni orders dated 13.12.2024 and 27.01.2025.

3. Learned counsel for the petitioners submit that the petitioners have been falsely implicated in the present case for allegedly indulging in trafficking of 1000 intoxicant tablets while they both were going on a motorcycle. Learned counsel, on the last date of hearing, had contended that even though the challan was presented way back on 14.03.2024 and charges were thereafter framed on 21.03.2024, yet the recording of the prosecution evidence had not commenced only on account of the repeated absence of the prosecution witnesses, who in the present case, are all police officials.

4. Learned State counsel, on the last date of hearing had also, opposed the prayer made for extending the concession of bail to the petitioners on account of the fact that a secret information had been received qua both the petitioners indulging in drug trafficking.

5. Learned State counsel has, however, brought to the notice of this Court that prosecution evidence has since commenced, with one witness out of the 18 cited by the prosecution, having been examined.

6. On a pointed query with respect to the zimni orders, which have been placed on record by the counsel for the petitioner, learned State counsel, on instructions, has not disputed its contents.

7. Learned counsel for the petitioners have, therefore, in the given scenario, prayed that the petitioners be enlarged on bail as there is no possibility of the trial concluding in the near future. In addition, it

has been urged that on account of the repeated absence of the prosecution witnesses before the trial Court, the constitutional right of the petitioners to a fair and speedy trial is being compromised. In support, learned counsel has placed reliance upon *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]*, wherein Hon'ble the Apex Court in almost identical circumstances had extended the concession of bail to the accused on account of inordinate delay in the conclusion of the trial even though the recovery effected had been classified as 'commercial' in the said cases; Hon'ble the Apex Court had dispensed with the conditions of Section 37 of the NDPS Act in the said cases.

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

9. Petitioners Manish Kumar and Ajay Kumar have been languishing in custody since 19.09.2023 and 20.09.2023 respectively. The trial has been unduly prolonged for reasons not attributable to the petitioners. Hence, it is evident that the constitutional right of the petitioners has been compromised, for which they cannot be made to languish in custody anymore.

10. In the facts and circumstances as enumerated hereinabove, the instant petitions are allowed. The petitioners 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.

11. Needless to say, in case the petitioners misuse the concession of bail granted to them, the State would be at liberty to seek cancellation of the same.

January 31st, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned

:

Yes

Whether reportable

:

No