



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

212

CRM-M-37056-2024

Date of decision: January 29th, 2025

Satbir alias Satroop

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Narender Kaajla and Mr. Ajay Nain, Advocates
for the petitioner.

Mr. Rajat Gautam, Additional Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

This is a second petition filed by the petitioner seeking the concession of regular bail in FIR No.286 dated 08.04.2023 registered under Section 20(b)(ii)C of the NDPS Act, 1985, at Police Station Barwala (Hisar).

2. Learned counsel for the petitioner submits that the petitioner has been languishing in custody since 08.04.2023 after he was allegedly found in possession of 2.50 kilograms of *charas* pursuant to an alleged secret information received qua his involvement in drug trafficking. Learned counsel has urged that the trial has been prolonged on account of irregular appearances of the prosecution witnesses, who in the present case, are all police officials and after the charges were framed on 08.12.2023, none of the 23 prosecution witnesses have been examined to date. It has been further argued by the learned counsel that on this ground alone, the petitioner deserves to be enlarged on bail as the inordinate delay in the conclusion of the trial is for reasons not attributable to the petitioner

but to the prosecution. In support, learned counsel has placed reliance upon *Ram Lal Versus State Rajasthan (SLP (Crl.) No.9510/2024 dated 20.04.2024* and *Dheeraj Kumar Shukla Vs. State of Uttar Pradesh (SLP(Crl.) No.6690/2022) decided on 25.01.2023*, wherein Hon'ble the Supreme Court enlarged the accused on bail even though the recovery allegedly effected from them had been classified as commercial under the NDPS Act.

3. On a pointed query put to the learned counsel as to whether the petitioner is facing trial in any other criminal case, he submits that although the petitioner was indeed booked in four other criminal cases previously, however, he stands acquitted in all those cases.

4. *Per contra*, learned State counsel while opposing the prayer and submissions made by counsel opposite, has not disputed the custody period of the petitioner, who has now been in custody since 08.04.2023 nor has the State counsel, on instructions, disputed the stage of trial. However, it has been contended by the learned State counsel that the recovery made from the petitioner i.e. 2.50 kilograms of *charas* falls under the commercial quantity and hence, he may not be enlarged on bail.

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's case (supra)* 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.

January 29th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No