



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

CRM-M No.40914 of 2024
Date of decision: 19th May, 2025

Mohit Kumar @ Monu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sukhwinder S. Dhillon, Advocate for the petitioner.

Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of regular bail under Section 439 of Cr.P.C. in case bearing FIR No.80 dated 08.11.2023 under Sections 22-C/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (offence u/s 22-B deleted and 22-C of NDPS Act added later on) registered at Police Station Bariwala, District Sri Muktsar Sahib.

2. Learned counsel for the petitioner submits that the petitioner has no previous criminal antecedents and has been in custody in a case of false implication since 08.11.2023. It has been further argued that after the challan was presented way back on 21.02.2024 and charges framed on 03.04.2024, trial had been proceeding at a very sluggish pace, with only 2 prosecution witnesses out of the 18 having been examined so far. While drawing the attention of this Court to the

Zimni orders of the trial Court which have been placed on record today, it has been further submitted that the trial has been prolonged on account of the repeated absence of the prosecution witnesses, who in the present case are all police officials; despite theailable/non-ailable warrants having been issued to secure the presence of the prosecution witnesses, they have been still not appearing. Learned counsel has asserted that in the circumstances, the petitioner's right to speedy and fair trial has been compromised. It has still further been submitted that even otherwise, the alleged recovery of 30 tablets of Etizolam, which was made from the petitioner, is just marginally higher than the minimum classified as commercial under the Act. Learned counsel has further 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) decided on 25.01.2023**, wherein the Hon'ble Supreme Court had extended the concession of bail to the accused therein even though recovery affected was classified as commercial, on account of long incarceration of the petitioner.

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 factual aspect of the submissions made qua the stage of the trial. Learned State counsel, on instructions, has also not disputed that the petitioner has no previous criminal antecedents. It has, however, been submitted that recovery of contraband although just marginally higher than the minimum classified as commercial, still falls within the

commercial quantity and hence, bar under Section 37 of the Act would be applicable against the petitioner.

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

5. The petitioner has been in custody since 08.11.2023 after charges were framed in April 2024. Only 2 prosecution witnesses out of the 18 cited have been examined and the reasons for the delay are not attributable to the petitioner as is evident from a perusal of the zimni orders, which have been placed on record. In the facts and circumstances as enumerated hereinabove and the observations made by Hon’ble the Supreme Court in **Rabi Prakash’s case and Dheeraj Kumar Shukla’s case (ibid)**, this Court deems it fit to extend the concession of bail to the petitioner. The petition, as such, is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

6. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

May 19, 2025
rps

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