

2025.PHHC.042638



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

CRM-M-43606-2024 (O&M)

Date of decision: 27.03.2025

Rahul Kumar

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jasinder Singh Sekhon, Advocate, for the petitioner.

Mr. Amit Rana, Senior DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-5612-2025

Application is allowed, as prayed for.

Copies of zimni orders w.e.f. 02.07.2024 at Annexure P-9, are taken on record subject to all just exceptions.

CRM-M-43606-2024

1. This is second petition (after the previous petition was dismissed vide a detailed order on 09.02.2024) under Section 483 of BNSS, 2023, for grant of regular bail to the petitioner in case FIR No.124, dated 23.07.2023, under Section 22 of NDPS Act (Section 29 of NDPS Act added lateron), registered at Police Station Garhshankar, District Hoshiarpur.

2. At the outset, a pointed query was posed to learned counsel for the petitioner as to what the material change in circumstances which would warrant acceptance of his prayer for regular bail, to which, he submitted

that trial had not yet started and it had been rather proceeding at a very slow pace; the petitioner had been falsely implicated in the present case which was evident from the fact that he has no previous criminal antecedents. In support of his contention qua the inordinate delay in the conclusion of the trial, learned counsel invited the attention of this Court to the zimni orders of the trial Court, annexed as Annexure P-9.

3. *Per contra*, learned State counsel, while vehemently opposing the prayer and submissions made by the counsel opposite, has contended that it was not a case of false implication, as had been argued by the counsel for the petitioner. The recovery of 22 injection of Buprenorphine, weighing 40 grams, was effected from the petitioner and that too, after due compliance of all the mandatory provisions under the NDPS Act. Furthermore the recovered contraband was multiple times more than the minimum classified as 'commercial' under the NDPS Act. Learned State counsel, while relying upon the zimni orders placed on record by the counsel for the petitioner, has further submitted that a perusal of the same clearly indicate that on at least three dates, even though the prosecution witnesses were present before the trial Court, the case was adjourned on the request of none other than the counsel for the defence. Hence, if there had been some delay in the conclusion of the trial, the defence too had contributed to the same and the prosecution could not be held solely responsible for the same. Learned State counsel, on further instructions, submitted that the next date of hearing before the trial Court is 19.04.2025 when some of the remaining 06 prosecution witnesses would be examined

and since the remaining witnesses are mostly formal in nature, the trial would take not much time to conclude.

4. I have heard learned counsel for the parties and perused the material placed on record, including the zimni orders which have been placed on record by the counsel for the petitioner.

5. The assertion made by the counsel for the petitioner qua the slow progress of the trial does not hold much water, as it is evident that the defence counsel has taken repeated adjournments and has failed to conduct cross-examination of the prosecution witnesses even though they were very much present before the trial Court on different dates of hearing. The alleged recovery effected in this case is 40 grams of Buprenorphine, which is higher than the minimum classified as 'commercial' under the NDPS Act, i.e. 17.8 grams.

6. This Court, in the aforementioned facts and circumstances, does not deem it fit to extend the concession of bail to the petitioner. Present petition stands dismissed accordingly.

7. 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.

(MANJARI NEHRU KAUL)
JUDGE

March 27, 2025

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No