

2025:PHHC:001908



229.

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

CRM-M-45194-2024

Date of decision: 09.01.2025

Satyawan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Amit Choudhary, Advocate, for the petitioner.

Mr. Yuvraj Shandilya, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

This is third petition that has been filed under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case FIR No.104, dated 25.05.2022, under Sections 20C/27A of the NDPS Act, 1985, registered at Police Station Jakhal, District Fatehabad.

Learned counsel for the petitioner submits that the petitioner has been in custody since 25.05.2022 in a case of false implication; the petitioner was allegedly apprehended on suspicion and a recovery of 40 kgs of *ganja* then recovered from him while he along with the co-accused were going on a motorcycle. Learned counsel has submitted that the petitioner has no previous criminal antecedents which lends credence to his false implication in the present case. It has also been urged that despite the challan having been presented on 08.12.2022 and charges having been

framed on 23.01.2023, the trial has not yet concluded and from the last 01 year and 03 months, the trial Court has been adjourning the case on most of the dates of hearing on account of the repeated absence of prosecution witnesses. In support, learned counsel has placed on record the zimni orders of the trial Court. Learned counsel submits that in the aforementioned facts and circumstances, the petitioner cannot be made to suffer incarceration for reasons attributable not to him but to the prosecution and prosecution alone. In support, learned counsel has drawn attention of this Court to the case in ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh (SLP(Crl.) No.6690/2022)***, ***decided on 25.01.2023*** wherein the Hon'ble Supreme Court, in almost identical facts and circumstances, had done away with the bar created under Section 37 of NDPS Act and extended the concession of bail to the accused therein, even though, the alleged recovery effected in the case had been classified as commercial under the NDPS Act.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel opposite, has submitted that the petitioner was nabbed by the police on suspicion leading to the recovery of huge quantity of *ganja* i.e. 40 kgs, classified as 'commercial' under the Act. Learned State counsel, however, on instructions, has not disputed the custody period of the petitioner nor has it been disputed that the case is being adjourned time and again before the trial Court for reasons not attributable to the petitioner but on account of non-appearances of the prosecution witnesses, who in the present case are all police officials.

On a pointed query, learned State counsel, on instructions, has not disputed that the petitioner does not have any previous criminal antecedents.

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

The petitioner was allegedly apprehended on suspicion. The trial has virtually come to a standstill on account of repeated absence of the prosecution witnesses before the trial Court, thus, compromising with the right of the petitioner-accused to speedy trial.

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner as the possibility of the trial concluding in the near future looks remote, more so, when as per the conceded case of the State, 13 prosecution witnesses still remained to be examined.

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.

(MANJARI NEHRU KAUL)
JUDGE

January 09, 2025
sanjeev

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No