

2025.PHHC.012695



239.

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

CRM-M-50274-2024

Date of decision: 28.01.2025

Narender Kumar

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Digvijay Singh, Advocate, for the petitioner.

Mr. Yuvraj Shandilya, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

The instant petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, read with Section 439 of Cr.P.C., for grant of regular bail to the petitioner in case FIR No.330, dated 22.06.2023, under Sections 15-C, 61 and 85 of NDPS Act, 1985, registered at Police Station City Fatehabad, District Fatehabad.

Learned counsel for the petitioner submits that the petitioner has been in custody since 22.06.2023. It has been argued by the learned counsel that even though the recovery of 118 kgs of poppy husk has been planted upon the petitioner and he has thereafter been falsely implicated in the present case, however, even otherwise, the petitioner deserves the concession of bail as the trial has been proceeding at a snail's speed with only 07 prosecution witnesses out of 22 cited have been examined till date after the charges were framed on 03.06.2024. It has also been submitted that since the prosecution witnesses had not been appeared on one of the

dates, the trial Court had ordered attachment of their salaries since these prosecution witnesses were none other than the police officials. 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), decided on 25.01.2023*** wherein the Hon'ble Supreme Court on account of inordinate delay in the conclusion of trial had done away with the bar created under Section 37 of the NDPS Act and enlarged the accused therein on bail.

It has been also argued by the learned counsel that the petitioner has no previous criminal antecedents, much less ever involved in any criminal case.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has, on instructions, not disputed the custody period of the petitioner nor has he disputed the stage of trial. However, it has been asserted that the recovery effected from the petitioner was 118 kgs of poppy husk which was recovered from his own car which he was driving at the relevant time.

On a pointed query, it has not been refuted by the learned State counsel that the petitioner has no previous criminal antecedents.

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

The petitioner has been in custody since 22.06.2023 and the possibility of the trial concluding in the near future looks remote as 15 prosecution witnesses still remain to be examined. The challan in the

present case was presented way back on 13.12.2023 and charges were thereafter framed on 03.06.2024. The next date fixed before the trial Court is 28.02.2025.

In *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)*, *decided on 25.01.2023*, the Hon'ble Supreme Court, on account of inordinate delay in the conclusion of trial, had done away with the bar created under Section 37 of the NDPS Act and enlarged the accused therein on bail.

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.

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.

Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

(MANJARI NEHRU KAUL)
JUDGE

January 28, 2025

Sanjeev	Whether speaking/reasoned:	Yes/No
	Whether reportable:	Yes/No