



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

CRM-M No.56313 of 2023 (O&M)
Date of decision: 24th February, 2025

Gurcharan Singh @ Channi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Salil Dev S. Bali, Advocate for the petitioner.

Mr. Navdeep Singh, Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.33 dated 27.03.2023 under Sections 15C & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Khuian Sarwar, District Fazilka.

2. Learned counsel for the petitioner submits that the petitioner, who has no prior criminal antecedents, has been falsely implicated in the present case based on alleged secret information. The petitioner has been in custody since 27.03.2023, yet not a single prosecution witness out of the 24 cited has been examined, despite the fact that charges were framed as far back as on 23.04.2024.

3. It is further contended that the recovery of 100 kgs of poppy husk was not affected from the conscious possession of the petitioner but rather from a vehicle that did not belong to him. The said vehicle was

owned and driven by co-accused Bhupinder Singh at the time of its interception by the police. Moreover, even as per the case of the prosecution, all bank transactions and phone calls were between co-accused Bhupinder Singh and the alleged supplier of the contraband, co-accused Ram Sarup @ Raju.

4. Learned counsel further submits that following the arrest of the petitioner on 27.03.2023, no recovery of any contraband was made pursuant to his alleged disclosure statement, which merely stated that he, along with the co-accused, was engaged in the sale and purchase of poppy husk. Additionally, learned counsel has submitted that the petitioner has been suffering from serious medical ailments, for which he was previously granted interim bail on medical grounds. It is emphasized that the petitioner complied with all the conditions imposed upon him during the period of interim bail and did not misuse the concession by involving himself in any other criminal activity.

5. Learned counsel has therefore prayed for extending the concession of bail to the petitioner.

6. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, does not dispute the fact that the petitioner has no previous criminal antecedents, nor does the State dispute the custody period of the petitioner or the current stage of the trial. Further, while referring to the affidavit filed on behalf of Sukhwinder Singh Brar, PPS, DSP Sub-Division Abohar, in the Court today along with the medical report of the petitioner, learned State counsel does not dispute that the petitioner is undergoing treatment

for seizure disorder (post traumatic) and is prescribed anti epileptic medication.

7. However, the learned State counsel has reiterated that the petitioner was travelling in the same vehicle as the co-accused at the time of interception, and from the said vehicle, 5 bags, each containing 20 kgs of poppy husk, were recovered.

8. Upon a specific query from the Court regarding whether the petitioner had breached any condition while on interim bail, learned State counsel has replied in the negative.

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

10. The petitioner has been in custody since 27.03.2023. The chargesheet was filed on 24.08.2023, yet the trial has not progressed beyond the framing of charges on 23.04.2024. Notably, no prosecution witness has been examined to date. The delay in the trial is not attributable to the petitioner, and given the pace of proceedings, its conclusion is likely to take considerable time.

11. Moreover, the petitioner has no previous criminal antecedents. He was previously granted interim bail on medical grounds, and it is undisputed that he has neither violated any condition imposed upon him nor misused the concession.

12. In the facts and circumstances as enumerated hereinabove, further incarceration of the petitioner would serve no useful purpose. Accordingly, this Court deems it appropriate to admit the petitioner to bail overriding the bar under Section 37 of the NDPS Act. In almost identical circumstances, on account of delayed trial, the Hon'ble Sureme

Court in ‘**Dheeraj Kumar Shukla Vs. State of Uttar Pradesh**’
(SLP(Crl.) No.6690/2022) decided on 25.01.2023, 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.”

13. In these circumstances and the observations made by Hon’ble the Supreme Court in **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.

14. 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

February 24, 2025
rps

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