

2025:PHHC:005259



234.

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

CRM-M-53419-2024

Date of decision: 15.01.2025

Rahul Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ravi Malhotra, Advocate, for the petitioner.

Mr. Amit Rana, Senior DAG, Punjab with
ASI Sukhdev Singh.

MANJARI NEHRU KAUL, J. (ORAL)

The instant petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case FIR No.521, dated 21.12.2022, under Section 22 of NDPS Act, 1985 registered at Police Station Division No.7, District Ludhiana.

Learned counsel for the petitioner, at the outset, submits that although the alleged recovery of 700 tablets of tramadol has been falsely planted upon him in a case of chance recovery, however, he seeks bail only on the ground of inordinate delay in the conclusion of the trial after the charges were framed on 18.04.2023. It has been asserted by the learned counsel that the trial had come to a virtual standstill as it is a matter of

record that only 02 witnesses out of 12 cited have been examined so far and the next date fixed before the trial Court is 05.02.2025. It has been still further submitted by the learned counsel that the petitioner was not responsible for the delay in the conclusion of the trial as it was for reasons attributable to the prosecution and on some dates, the case was not taken up by the trial Court on account of some administrative reasons. Learned counsel submits that almost in identical cases, the Hon'ble Supreme Court 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*** had done away with the bar created under Section 37 of the NDPS Act and proceed to grant bail to the accused therein on account of the inordinate delay in the conclusion of the trial. It has been contended that the petitioner is squarely covered by the observations made by the Hon'ble Supreme Court in ***Rabi Prakash's case*** and ***Dheeraj Kumar Shukla's case*** (supra) that the accused cannot be made to languish in custody to await the conclusion of the trial, for reasons which are not attributable to him.

On a pointed query, learned counsel has stated that the petitioner has no previous criminal antecedents.

Per Contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not disputed the custody period of the petitioner nor has he disputed that as on date, only 02 prosecution witnesses out of 12 cited have been examined after the charges

framed on 18.04.2023. Learned State counsel, on further instructions, has not refuted that the petitioner has no previous criminal antecedents. However, it has been submitted by the learned State counsel that the petitioner was intercepted on suspicion leading to the recovery of 700 tablets of tramadol which has been classified as commercial under the Act.

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

The petitioner has been in custody for more than 02 years having been arrested on 31.12.2022. The trial has made no progress beyond the examination of 02 prosecution witnesses for reasons which are not attributable to the petitioner.

Hon'ble Supreme Court in ***Dheeraj Kumar Shukla's case*** (supra) has 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.”

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 15, 2025
sanjeev

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