



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

224

CRM-M-57475-2024

Date of decision: 08.07.2025

Birender Singh @ Virender

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Baljeet Beniwal, Advocate,
Ms. Pooja Chaudhary, Advocate and
Mr. Chattar Singh Chauhan, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. A.G. Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is before this Court for the second time seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in case FIR No.119 dated 16.04.2022 under Sections 20, 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Sadar Palwal, District Palwal, after the previous petition was withdrawn on 15.02.2024.

2. On a pointed query put to the learned counsel for the petitioner as to what is the material change in circumstances which would warrant acceptance of his prayer, learned counsel has submitted that the trial has come to a virtual standstill on account of the lackadaisical conduct of the prosecution witnesses, who in the present case are all police officials. Learned counsel while placing reliance



upon *Rabi Prakash Vs. The State of Odisha : 2023 LiveLaw (SC) 533* and *Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP(Crl.) No.6690/2022]* has submitted that in almost identical circumstances, Hon'ble the Supreme Court had extended the concession of bail to the accused therein on account of their long incarceration and the delayed trial being attributable to the prosecution witnesses. Learned counsel submits that since in the present case also after the charges were framed way back on 26.10.2022, only 02 prosecution witnesses out of the 18, have been examined; it is the prosecution witnesses, who in the present case are all police officials, who are responsible for the prolonged trial and, therefore, it amounts to severely compromising upon the constitutional right of the petitioner to a fair and speedy trial.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has not disputed that the petitioner has been in custody since 14.04.2022 nor has he disputed that as on date only 02 prosecution witnesses out of the 18 have been examined even though charges were framed way back on 26.10.2022. Learned State counsel has, however, opposed the prayer of the petitioner by submitting that a specific secret information had been received qua the involvement of the petitioner in drug trafficking pursuant to which a huge recovery of 87 kgs 800 grams of ganja was made from the petitioner after due compliance of the mandatory provisions of the NDPS Act. It has also been brought to the notice of this Court that the petitioner was earlier booked in a case under the NDPS Act in the State of U.P., however,



concededly he has served out his sentence of six months. Learned State counsel has, therefore, prayed for dismissal of the instant petition keeping in view the huge recovery of contraband made from the petitioner.

4. On a pointed query, learned State counsel, on instructions, has not disputed that the identically placed co-accused who were also nabbed along with the petitioner following the secret information, had since been extended the concession of bail by Hon'ble the Supreme Court vide order dated 17.12.2024.

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

6. It is evident that the trial has come to a virtual standstill for reasons attributable yet again to the prosecution witnesses, who in the present case are all police officials. Although the petitioner is stated to have been convicted in one case under the NDPS Act, however, that conviction would not come in the way of extending the concession of bail to the petitioner in the instant FIR since it is clearly discernible that the petitioner's right to a fair and speedy trial has been compromised on account of the repeated non-appearance of the prosecution witnesses. Hon'ble the Supreme Court in ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP(Crl.) No.6690/2022]***, decided on 25.01.2023 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.”

7. Furthermore, there is no possibility of the trial concluding in the near future with 16 prosecution witnesses remaining to be examined. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

8. Accordingly, the instant petition is allowed. 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.

9. 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.

08.07.2025

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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