

2025:PHHC:013451



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(225)

CRM-M-61102-2024

Decided on : 29.01.2025

Parvesh

.....Petitioner(s)

Versus

U.T.Chandigarh

.....Respondent(s)

CORAM : HON'BLE MRS.JUSTICE MANJARI NEHRU KAUL

Present: Mr.Anmol Rattan Sidhu, Sr.Advocate with
Mr.Harlove Singh Rajput, Advocate for the petitioner (s).

Mr.Manish Bansal, Public Prosecutor, U.T. Chandigarh
and Ms.Diksha Sharma, Advocate, for U.T. Chandigarh
Assisted by I.O.-Sher Singh.

MANJARI NEHRU KAUL, J. (Oral)

1. Prayer in the instant petition is for grant of regular bail to the petitioner under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS) in case FIR No.6 dated 17.01.2023 under Section 20 of the NDPS Act, 1985, registered at Police Station Sector 39, Chandigarh.

2. Learned Senior Counsel for the petitioner submits that the petitioner has been languishing in custody since 17.01.2023 and in an apparent case of false implication, as it is a matter of record that the petitioner has never been involved in any case under the NDPS Act. Learned Counsel has asserted that a recovery of 2 kgs 420 grams of *Charas* was planted upon the petitioner when he was allegedly nabbed on suspicion. Thereafter, challan was presented on 15.07.2023, followed by framing of charges on 21.07.2023. However, even after more than 1 ½ years, only 8 out of the 23 witnesses have been examined by the prosecution and the delay in the conclusion of trial has primarily been on account of irregular appearances of the prosecution witnesses who in the present case are all police officials.

3. Per contra, Learned Standing Counsel for respondent-U.T., while opposing the submission made by the counsel opposite, has not disputed the custody period of the petitioner nor the stage of trial is disputed. Learned Counsel submits that 9 prosecution witnesses have been examined while 3 witnesses have been given up which leaves about 11 witnesses to be examined. Learned Counsel, on further instructions, submits that the next date of hearing before the Trial Court is 30.01.2025, when in all likelihood, some of the prosecution witnesses would be examined. On a pointed query put to Learned Standing Counsel for respondent-U.T. as to whether the petitioner has any previous criminal antecedents, he on instructions, has replied in negative. Learned Counsel submits that the petitioner was nabbed on suspicion and thereafter, the alleged recovered was effected from him. Learned Counsel has placed on record custody certificate of the petitioner dated 29.01.2025. Same is taken on record with copy to the counsel opposite.

4. I have heard Learned Counsel for the parties and perused the relevant material on record.

5. The petitioner has been in custody since 17.01.2023. There is no possibility of the trial concluding in the near future as 11 prosecution witnesses still remain to be examined. It is not disputed that the petitioner is not involved in any other case under the NDPS Act. In **Dheeraj Kumar Shukla Vs. State of Uttar Pradesh (SLP(Crl.) No.6690/2022) decided on 25.01.2023** in almost identical circumstances, the Hon'ble Supreme Court had done away with the bar under Section 37 of the NDPS Act and proceeded to grant the concession of bail to the accused therein despite the fact that the contraband recovered from the accused had been classified as commercial under the Act.

6. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. 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 or is yet again involved in any other criminal case including the case under the NDPS Act, the State would be at liberty to seek cancellation of the same.

January 29, 2025
Sailesh

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether Reportable : No