



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

228

CRM-M-63809-2024

Date of decision: 09.07.2025

Vijay Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Jitender Singh Dadwal, Advocate for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab
assisted by ASI Rajbinder Singh.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (third) petition is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in case FIR No.0080 dated 09.04.2023 under Sections 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') (Sections 25, 29, 61, 85 of the NDPS Act added lateron) registered at Police Station City Kapurthala, District Kapurthala.

2. Learned counsel for the petitioner has, at the outset, restricted his prayer for bail solely on the ground of his long incarceration and the trial coming to a virtual standstill on account of persistent absence of the prosecution witnesses, who in the present case are all police officials. Learned counsel has submitted that the petitioner was arrested in the present case on 09.04.2023 and thereafter a recovery of 260 grams of heroin was shown to have been made from the tool box of the motorcycle on which he along with the co-accused were travelling. It has been argued by the learned counsel that after the



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investigation concluded in the present case, challan was presented on 17.07.2023 followed by framing of charges on 16.08.20023, however, it is a matter of record that till date only 01 prosecution witness out of the 17 cited, has been examined; it is the prosecution witnesses who have been absenting themselves before the learned Trial Court as a result of which the trial has not made any progress. Learned counsel has submitted that in the circumstances, there is no manner of doubt that his right to a speedy and fair trial has indeed been severely compromised. Learned counsel has submitted that almost in identical circumstances, Hon'ble the Supreme Court in a number of cases had done away with the bar created under Section 37 of the NDPS Act and extended the concession of bail to the accused on account of their long incarceration and the tardy progress of trial.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has neither disputed the custody period of the petitioner nor has he disputed that after the previous petition of the petitioner seeking similar relief was withdrawn on 31.07.2024, the trial had made little progress with only 01 out of the 17 prosecution witnesses having been examined. Learned State counsel, however, has submitted that the recovery effected from the petitioner in the present case is 260 grams of heroin which has been classified as 'commercial' under the NDPS Act; it has also been brought to the notice of this Court that the petitioner is facing trial in 03 other criminal cases including 01 under the NDPS Act. Learned State counsel, on further instructions, has also not been



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able to dispute that the prosecution witnesses have indeed been absenting themselves before the learned Trial Court to get their evidence recorded leading to the trial being prolonged.

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

5. This is yet another case wherein the right of an accused to a speedy and fair trial has been compromised for reasons attributable to the prosecution and prosecution alone. It has been almost 02 years after the charges were framed on 16.08.20023, however, only 01 witness and that too formal, has been examined till date. In the circumstances, this Court deems it fit to extend the concession of bail to the petitioner.

6. 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. The Trial Court/Duty Magistrate concerned may imposed any such stringent conditions as it deems fit to ensure the presence of the petitioner on each and every date of hearing before the learned Trial Court.

7. 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.

8. 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.

09.07.2025

(MANJARI NEHRU KAUL)

Vinay

JUDGE

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