



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

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CRM-M-64342-2024

Date of decision: 25.08.2025

Umesh Chaudhary

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Arnav Ghai, Advocate for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab
assisted by ASI Sukhwinder Singh.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in case FIR No.34 dated 15.04.2024 under Sections 18/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') (Section 29 of the NDPS Act added lateron) registered at Police Station Dirba, District Sangrur.

2. Learned counsel for the petitioner submits that the petitioner has been languishing in custody since 15.04.2024 after he was allegedly nabbed with 06 kgs of opium following a secret information. Learned counsel has placed on record the zimni orders of the learned Trial Court and has argued that a perusal of those zimni orders clearly reveal that after the challan was presented and charges framed on 05.10.2024, on each and every date of hearing, the learned Trial Court had been adjourning the case on account of the absence of



the prosecution witnesses even though on some dates of hearing bailable warrants had been issued to secure the presence of those prosecution witnesses. Learned counsel has, therefore, prayed that the petitioner cannot be made to languish in custody for no fault of his coupled with the fact that the petitioner has no previous criminal antecedents much less ever been involved in any other case under the NDPS Act. Learned counsel has taken support from ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP(Crl.) No.6690/2022]*** and ***Rabi Prakash Vs. The State of Odisha : 2023 LiveLaw (SC) 533*** to urge that in identical circumstances, Hon'ble the Supreme Court had done away with the bar under Section 37 of the NDPS Act even though the recovered contraband had been classified as 'commercial' under the NDPS Act, on account of the inordinate delay in the conclusion of the trial for reasons attributable to the prosecution.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has not disputed the custody period of the petitioner nor has he, on instructions, disputed the stage of trial. However, it has been submitted by the learned State counsel that a secret information had been received qua the involvement of the petitioner in drug trafficking and pursuant thereto 06 kgs of opium (commercial quantity) was recovered from the petitioner. It has been argued that there was no question of the petitioner being falsely implicated in the present case and such a huge recovery being planted upon him. However, learned State counsel, on instructions, has not been able to dispute the contents



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of the zimni orders which have been placed on record today which clearly reveals that the trial has not concluded till date on account of the repeated absence of the prosecution witnesses, who in the present case are all police officials.

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

5. The petitioner has been in custody since 15.04.2024. The possibility of the trial concluding in the near future does not arise as only 01 prosecution witness out of the 15 cited, has been partly examined. Despite issuance of bailable warrants to secure the presence of some of the prosecution witnesses, they for reasons best known to them, have been continuously absenting themselves before the learned Trial Court. 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.”

6. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial



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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.

7. 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.

25.08.2025

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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