



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

227

CRM-M No.21050 of 2024  
DATE OF DECISION :20<sup>th</sup> FEBRUARY, 2025

Bhopal

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

\* \* \* \*

Present : Mr. Mahender Singh Chahal, Advocate for  
Ms. Sharmila Sharma, Advocate for the petitioner.  
Mr. Rajat Gautam, Addl. A.G. Haryana.

\* \* \* \*

MANJARI NEHRU KAUL, J. (Oral)

This is second petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.235 dated 25.03.2023 under Section 20 of NDPS Act, 1985 registered at Police Station City Rohtak, District Rohtak.

2. Learned counsel for the petitioner submits that the petitioner has been languishing in custody since 25.03.2023 in a case of false implication. Recovery of 1.90 Kilograms of *Charas*, which is just marginally higher than the minimum classified under the NDPS Act, was allegedly effected from the petitioner. Learned counsel has submitted that even though challan was presented way back on 20.09.2023 and charges framed on 11.01.2024, not even a single prosecution witness out of the 17 cited, have been examined till date and the case had been adjourned time and again for reasons attributable to the prosecution and prosecution alone. In support, learned counsel has placed reliance on



*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*, wherein the Hon'ble Supreme Court had extended the concession of bail to the accused therein after doing away with the bar created under Section 37 of the NDPS Act, even though the recovery allegedly effected was classified as commercial.

3. *Per contra*, the learned State counsel while opposing the prayer and submissions made by the counsel opposite has neither disputed the custody period of the petitioner nor has it been disputed that the conclusion of trial will take time as none of the prosecution witnesses have been examined. Learned State counsel has, however, asserted that the recovery effected in the present case is of 1.90 Kilograms of *Charas*, which is just marginally higher than the minimum classified under the NDPS Act.

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

5. The possibility of the trial concluding in the near future looks remote, as out of the 17 prosecution witnesses, none has been examined yet; case is being adjourned for reasons not attributable to the petitioner, but to the prosecution alone and thus, the constitutional right of the petitioner to a fair and speedy trial has been compromised.

6. 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.”*

7. In the facts and circumstances as enumerated hereinabove, coupled with the fact that the trial would take considerable time to conclude, this Court deems it appropriate to allow this petition by dispensing with the conditions of Section 37 of the NDPS Act.

8. 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.

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.

20<sup>th</sup> February, 2025  
'raj'

(MANJARI NEHRU KAUL)  
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>