



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-17492-2025
Date of decision: 08.07.2025

Chotu RamPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Priyanshu Kamra, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab
assisted by ASI Raj Kumar.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.26 dated 21.01.2023 under Sections 22, 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Zirakpur, District SAS Nagar (Mohali).

2. Learned counsel for the petitioner submits that the petitioner deserves the concession of bail as he has been languishing in custody since 21.01.2023 in a case of false implication. It has been submitted that identically placed co-accused Abdul Khan @ Abdul Sattar, who was also allegedly apprehended along with the petitioner with 3000 capsules of Lomotil, has since been extended the concession of bail vide order dated 13.02.2025 (Annexure P-4) on account of the prolonged trial attributable to the repeated absence of prosecution



witnesses.

3. On a pointed query put to the learned counsel for the petitioner as to whether there has been any change in circumstances with respect to status of trial after co-accused Abdul Khan @ Abdul Sattar was granted bail, he has submitted that it is a matter of record that only 01 prosecution witness out of the 10 cited, has been examined and a perusal of the zimni orders, annexed as Annexure P-3, reveals that on most of the dates of hearing it is on account of the repeated absence of the prosecution witnesses, who in the present case are police officials, that the trial has not been able to progress further. On being pointedly queried as to whether the petitioner has any previous criminal antecedents, he has categorically replied in the negative.

4. In addition, learned counsel for the petitioner has placed 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]* wherein the Hon'ble Supreme Court in almost identical circumstances had extended the concession of bail to the accused therein on account of the prolonged trial even though in those cases also the recovered contraband had been classified as 'commercial'.

5. *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 the petitioner has no previous criminal antecedents. It has also not been disputed that the case of the petitioner



is at par with co-accused Abdul Khan @ Abdul Sattar, who has since been extended the concession of bail on account of the inordinate delay in the trial. Learned State counsel, on further instructions, has not controverted the contents of the zimni orders which have been annexed as Annexure P-3. However, it has been asserted by the learned counsel for the State that the recovery effected i.e. 3000 tablets of Lomotil is huge and classified as 'commercial' under the NDPS Act.

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

7. The petitioner has been languishing in custody since 21.01.2023. After the petitioner was arrested, challan was presented way back on 19.07.2023 followed by framing of charges on 13.10.2023, however, in the preceding 01 year and 09 months only 01 prosecution witness out of the 10, has been examined. Therefore, the constitutional right of the petitioner to fair and speedy trial has been severely compromised. 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.”

8. In the facts and circumstances as enumerated hereinabove,



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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 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

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**(MANJARI NEHRU KAUL)
JUDGE**

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