



2025:PHHC:083061



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

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CRM-M-18926-2025

Date of decision: 10.07.2025

Kuldeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab
assisted by ASI Jaswinderpal

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in case FIR No.74 dated 29.07.2019 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Sadar, Phagwara, District Kapurthala.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 23.03.2023. It is not in dispute that charges were framed on 23.03.2023, yet till date, only 03 out of 16 witnesses cited by the prosecution have been examined. He submits that despite the issuance of summons, includingailable and non-ailable warrants, the remaining prosecution witnesses, all of whom are police officials have failed to appear. As per the learned counsel, this pattern



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has persisted over no fewer than twenty seven hearings, rendering the progress of the trial virtually stagnant.

3. While relying upon the various pronouncements of the Hon'ble Supreme Court including *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]*, learned counsel has contended that an accused—particularly one with no prior criminal record—cannot be indefinitely incarcerated merely because the prosecution has been derelict in discharging its obligation. The learned counsel for the petitioner has argued that the petitioner is being penalised not for the alleged offence, but for the inexcusable apathy of the prosecution.

4. *Per contra*, learned State counsel while opposing the prayer and submissions made by the learned counsel for the petitioner, on instructions, has not disputed the custody period of the petitioner or the non-appearance of prosecution witnesses as reflected in the zimni orders, annexed with the petition. On instructions, learned State counsel has conceded that the trial has not meaningfully progressed since the date of the arrest of the petitioner. The only ground urged by the learned State counsel in opposition is the nature and quantity of the contraband allegedly recovered—1.540 kgs of Tramadol—classified as 'commercial quantity' under the NDPS Act, thereby attracting the rigours of Section 37 of the NDPS Act.

5. Upon pointed query, learned State counsel was unable to offer any cogent explanation for the repeated defaults of the



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prosecution witnesses. The vague assurance that “they shall now appear on every future date”, lacks both credibility and conviction given the past conduct.

6. Learned State counsel, on instructions, has also admitted that the petitioner has no previous criminal antecedents, and is facing prosecution for the first time.

7. I have heard learned counsel for the parties and perused the relevant material on record.

8. The right to a speedy and fair trial is an intrinsic part of the right to life and personal liberty enshrined under Article 21 of the Constitution of India. It applies equally to trials under special statutes like the NDPS Act, howsoever grave the allegations may be.

9. What stares glaringly from the record is a clear pattern of neglect and indifference on the part of the prosecution witnesses, who, despite repeated judicial orders, have failed to honour summons and warrants. That such conduct emanates from police officials—entrusted with the task of upholding the rule of law—is deeply concerning and unacceptable. It reflects complacency, which cannot be condoned.

10. The menace of drug trafficking is indeed a grave threat, steadily corroding, the social fabric and destroying countless lives. But the seriousness of the offence cannot become a licence to trample upon constitutional safeguards. Detaining an accused indefinitely due to the sheer nonchalance of the prosecution amounts to an abuse of process. The repeated absence of police witnesses, despite coercive measures ordered by the Court, exhibits not just a casual approach but blatant



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disregard for judicial authority.

11. In these circumstances, this Court finds itself left with no option but to grant the concession of bail to the petitioner. The delay in trial, entirely attributable to the prosecution, cannot become the basis for further incarceration of the petitioner.

12. 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 Court concerned shall be at liberty to impose any stringent or additional conditions upon the petitioner as may be deemed necessary to ensure that the petitioner does not misuse the concession of bail granted under this order and cooperates fully with the proceedings.

13. 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.

14. 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.

15. Before parting, this Court deems it necessary to record its strong disapproval of the dereliction shown by the prosecution witnesses. The Director General of Police, Punjab, is directed to look into the matter and take appropriate measures to ensure that police officers summoned as prosecution witnesses in criminal trials appear without fail.

16. A copy of this order be forwarded to the Additional Chief



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Secretary, Department of Home Affairs, Punjab and Director General of Police, Punjab, for necessary compliance.

10.07.2025

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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