IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

212 **CRM-M-1034-2025**
Date of decision : 16.01.2025

Hans Raj **..... Petitioner**

versus

State of Punjab **..... Respondent**

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Satnam Singh Gill, Advocate
for the petitioner.

Mr. Puru Jarewal, AAG, Punjab.

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PANKAJ JAIN, J. (Oral)

1, Present petition has been filed under Section 483 of BNSS for grant of regular bail to the petitioner in case bearing FIR No.93 dated 28.12.2022, registered for the offence punishable under Section 22 of NDPS Act, 1985 at Police Station Handesra, District SAS Nagar, Mohali.

2. Co-accused who is similarly situated stands admitted to regular bail by the Coordinate Bench observing as under:-

> "2. As per the prosecution case, the present FIR was registered at the instance of ASI Om Parkash No.731/SAS Nagar, alleging therein that on 28.12.2022, when he and his colleagues were conducting barricading operations at Ambala to Naraingarh Road, near Nagla turn, Handesra, the petitioner and co-accused Hans Raj were allegedly apprehended and they were found in possession of 7000 intoxicating capsules of Proxyband Spas each and following the alleged recovery of the contraband, the impugned FIR was filed against the petitioner and the co-accused.
>
> 3. Learned counsel for the petitioner inter alia contends that the petitioner is innocent and has been falsely implicated in

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2025.01.16 18:02
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the present case. He further submits that the petitioner is in custody for the last 02 years and 09 days and he is not involved in any other case. Learned counsel for the petitioner further submits that the investigation in the present case is complete, challan stands presented; charges have been framed and out of total 10 prosecution witnesses, only 07 PWs have been examined so far and the trial is likely to take considerable time to conclude, therefore, no fruitful purpose would be served by detaining the petitioner behind the bars.

4. Learned counsel for the petitioner has referred to a judgment of the Hon'ble Supreme Court passed in ***"Satender Kumar Antil Vs. Central Bureau of Investigation and another", 2022(10) SCC 51***, to contend that the Hon'ble Supreme Court has discussed the serious issue with regard to repeated adjournments and its effect upon the Right to Life under Article 21 of the Constitution of India. He has also referred to a latest judgment of the Hon'ble Supreme Court passed in ***Criminal Appeal No.943 of 2023 titled as "Mohd. Muslim @ Hussain Vs. State (NCT of Delhi)"*** decided on 28.03.2023 to contend that when there is a long delay in the trial and especially when it is not the fault of the accused and in that situation even the effect of Section 37 of the NDPS Act will be diluted in the given facts and circumstances of each and every case.

5. Per contra, learned State Counsel, has opposed the prayer for grant of regular bail to the petitioner on the ground that the petitioner was found in conscious possession of 7000 tablets containing salt of Tramadol Hydrochloride, which is commercial quantity and, therefore, he does not deserve the concession of regular bail. However, he could not refute that out of total 10 prosecution witnesses, only 07 PWs have been examined till date; the petitioner is not involved in any other case; he is in custody for the last 02 years and 09 days and the trial may take a considerable time to conclude.

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

7. In view of the custody period undergone by the petitioner, it is apposite to refer to a few judgments of Hon'ble Supreme Court in this regard wherein the Hon'ble Supreme Court has granted the concession of bail solely on ground of long

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2025.01.16 18:02
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custody :-

Case Number	**Date of Decision**	**Title of case**	**Period which the accused had undergone when granted bail by Hon'ble Supreme Court**
Criminal Appeal No.245/2020	07.02.2020	Chitta Biswas @ Subhas Vs. the State of West Bengal	1 year and 7 months
Criminal Appeal No.668/2020	12.10.2020	Amit Singh Moni Vs. State of Himachal Pradesh	2 years and 7 months
Special Leave to Appeal (Crl.) No.5187 of 2021	10.11.2021	Kulwant Singh Vs. The State of Punja	More than 2 years
Special Leave to Appeal (Crl.) No.5769/2022	01.08.2022	Nitish Adhikary @ Bapan Vs. the State of West Bengal	1 year and 7 months
Special Leave to Appeal (Crl.) No.4173 of 2022	04.08.2022	Shariful Islam @ Sarif Vs. the State of West Bengal	1 year and 6 months
Criminal Appeal No.1169 of 2022	05.08.2022	Gopal Krishna Patra @ Gopalrusma Vs. Union of India	2 years 1 month and 17 days
Special Leave to Appeal (Crl.) No.5530-2022	22.08.2022	Mohammad Salman Hanif Shaikh Vs. the State of Gurjarat	About 2 years
Special Leave to Appeal (Crl.) No.7840 of 2022	31.10.2022	Shahjad Vs. The State of Uttar Pradesh	About 2 years

8. Without commenting anything on merits of the case and considering the fact that the petitioner is not involved in any other case; he is in custody for the last 02 years and 09 days; investigation is complete; challan stands presented; charges have been framed and out of 10 PWs, only 07 PWs have been examined so far and the trial is likely to take considerable time to conclude, the present petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate concerned. However,

DINESH KUMAR
2025.01.16 18:02
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in addition to conditions that may be imposed by the trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.

(vi) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by the trial Court, the prosecution shall be at liberty to move an application for cancellation of bail of the petitioner."

3. State counsel does not dispute that the petitioner will be similarly situated with the accused Anil Kumar. As per custody certificate, petitioner has undergone 02 years and 10 days.

4. Keeping in view the incarceration already suffered by the petitioner, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the

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2025.01.16 18:02
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satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

(i) The petitioner shall not mis-use the liberty granted.

(ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.

(iii) The petitioner shall not absent himself on any date before the trial.

(iv) The petitioner shall not commit any offence while on bail.

(v) The petitioner shall deposit his passport, if any with the trial Court.

(vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.

(vii) The petitioner shall not in any manner try to delay the trial.

5. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

6. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

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Whether speaking/reasoned : Yes

Whether Reportable : No

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