

2025.PHHC.155331



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-4304-2025 (O&M)

Reserved on : 10.11.2025

Pronounced on : 12.11.2025

Anwar Khan**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Ms. Kamlesh, Advocate and
Ms. Amandeep Kaur, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J.

1. The instant petition has been filed by the petitioner seeking grant of regular bail in case bearing FIR No. 174 dated 26.11.2023, registered under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station City-1 Malerkotla, District Malerkotla.

2. Brief facts of the case relevant for the disposal of the present petition are that on 26.11.2023, on the basis of a secret information, the petitioner and co-accused Anwar Khan and Javed were apprehended by a police party and recovery of 2.560 kgs. of opium and drug money of Rs. 16000/- was effected from a bag which they were having at that time. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner along with co-accused is facing trial for commission of aforementioned offence. He had moved an application for grant of regular bail before the Court of learned trial Court but the same had been dismissed, vide order dated 29.11.2024.

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3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Mandatory provisions of the NDPS Act were not complied with properly. The quantity of the recovered contraband was marginally above the commercial quantity. He is not involved in any other case and has clean antecedents. Even otherwise, investigation has been completed long back and *challan* has been presented in Court. However, trial is substantially delayed as despite the fact that *challan* was presented on 18.05.2024, so far only 02 prosecution witnesses have been examined, that too partly, out of total 21 witnesses and there is no likelihood of the trial being completed in near future. The petitioner is in custody for a period about 02 years. In view of substantial delay in trial, the petitioner is entitled to get benefit of bail as no useful purpose would be served by keeping the petitioner in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. Learned Assistant Advocate General, Punjab has argued that keeping in view the gravity of the allegations levelled against the petitioner, he is not entitled to get benefit of bail. Rigors of Section 37 of the NDPS Act would be attracted against him as commercial quantity of the contraband was recovered from him and co-accused. Hence, it is urged that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

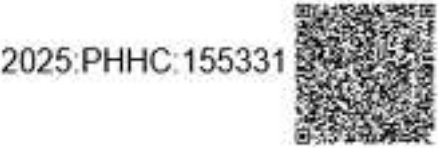
6. As per the allegations, the petitioner along with above named two co-accused was found to be in possession of 2.560 kgs. of opium and Rs. 16,000/- of drug money. The petitioner is in custody since the date of registration of the FIR. He has clean antecedents and is not shown to be

involved in any other case. On going through the record, it is apparent that the

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trial is substantially delayed as only 02 prosecution witnesses have been partly examined so far out of total 21 witnesses, despite the fact that challan was presented way back 18.05.2024. The petitioner has been in long incarceration. The trial is obviously delayed and there is no likelihood of the same to conclude in near future. Hon'ble Supreme Court in ***Rabi Prakash vs. State of Odisha : 2023 Live Law (SC) 533*** has held that the prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act. Similar view has been taken by Hon'ble Supreme Court in ***Ankur Chaudhary vs. State of Madhya Pradesh : 2024 (4) RCR (Criminal) 172***. Reliance can also be placed upon ***Mohd. Muslim @ Hussain vs. State (NCT of Delhi) : 2023 AIR(SC) 1648 2023 AIR(SC) 1648***, wherein Hon'ble Supreme Court, while granting concession of regular bail to an accused, from whom commercial quantity of the contraband was allegedly recovered, has held that grant of bail on the ground of undue delay in trial cannot be said to be fettered by Section 37 of the NDPS Act. Reference can also be made to the authority cited as ***Satender Kumar Antil vs. Central Bureau of Investigation and another, 2022(10) SCC 51***, wherein similar observations were made by the Hon'ble Supreme Court. Reliance can also be placed upon the authority cited as ***Bhupender Singh vs. Narcotic Control Bureau : (2022) 2 RCR (Criminal) 706***, wherein a Division Bench of this Court, after considering issue with respect to achieving balance between right to speedy trial guaranteed under Article 21 of the Constitution of India and the rigors enumerated under Section 37 of the NDPS Act, has held that convict/accused is not precluded from claiming bail invoking parameters of Article 21 of the



Constitution of India *de-hors* the stringent provisions of Section 37 of the NDPS Act. In the present case, apparently and evidently, the trial is substantially delayed. Therefore, keeping in view the aforementioned facts and circumstances and also the ratio of law as laid down in the aforecited authorities, this Court is of the considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

12.11.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>