

2025.PHHC.152461



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

CRM-M-5696-2025 (O&M)

Reserved on : 03.11.2025

Pronounced on : 06.11.2025

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

Present:- Mr. Ajeet Pal Singh Pakka, Advocate
for the petitioner.

Ms. Ramta Chowdhary, DAG, Punjab.

MANISHA BATRA, J.

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in case bearing FIR No. 208 dated 31.10.2023, registered under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short* 'NDPS Act') at Police Station Sadar Khanna, District Khanna.

2. As per the allegations, on the intervening night of 30/31.10.2023, a barricade was laid at GT Road, Village Alaur and one truck bearing registration number PB-04-AA-7725, driven by the petitioner, was intercepted. On conducting search, six plastic bags containing 108.5 kilograms of poppy husk were recovered from the body of the truck, which were taken into possession. The petitioner was apprehended and was formally arrested after completion of the usual formalities. Investigation now stands completed and the petitioner is facing trial for commission of the aforementioned offences.

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3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. In fact, he was an employee of co-accused Harmesh Kumar @ Meshi and had been employed as a driver on the truck in question on payment of salary at the rate of ₹10,000/- per month. He is behind bars since 31.10.2023. Trial will take considerable time to conclude, as till date only two witnesses, that too partly, have been examined. He has clean antecedents. His further incarceration will not serve any purpose. Co-accused Harmesh Kumar @ Meshi has already been granted concession of regular bail. On parity and in view of the aforesaid facts, the petitioner too deserves to be granted the same benefit. It is, thus, urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that commercial quantity of contraband was recovered from the petitioner and the rigors of Section 37 of the NDPS Act are attracted in this case. It is further argued that keeping in view the gravity of the allegations levelled against the petitioner, he does not deserve to be extended the benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

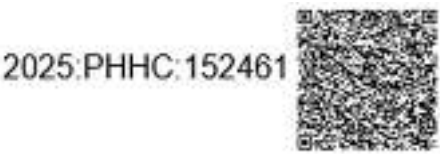
5. This Court has heard the submissions made by both the parties.

6. As per the allegations, recovery of 108.5 kgs. of poppy husk was effected from the aforementioned truck on the intervening night of 30/31.10.2023, which was driven by the petitioner. The petitioner is in custody since the date of registration of the FIR. However, co-accused Harmesh Kuumar @ Meshi, who was the owner of the said truck, is stated to have been granted the concession of bail. On going through the record, it is apparent that the trial is substantially delayed as only 02 prosecution witnesses

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have been partly examined so far out of total 16 witnesses. The petitioner has been in long incarceration. He has clean antecedents. 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.

7. 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.

06.11.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

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