

2025.PHHC.156263



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

210

CRM-M-7573-2025 (O&M)
Date of decision : 12.11.2025

Jagdish Singh @ Gaggi**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. B. S. Jatana, Advocate
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

MANISHA BATRA, J.(Oral)

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. 0173 dated 25.08.2022, registered under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station City Budhlada, District Mansa.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 25.08.2022, on the basis of suspicion, the petitioner was apprehended by a police party and recovery of 30 vials of Wincirex containing 100 ml each having Codeine Phosphate and 300 tablets of Wallace Carisoprodol was effected from him. Since he could not produce any valid license or permit to keep in his possession the recovered drugs, he was formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented on 27.01.2023 in the Court and

2025.PHHC.156263



presently, the petitioner is facing trial for commission of aforementioned offence.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. Mandatory provisions of the NDPS Act were not complied with properly. No independent witness was joined at the time of effecting alleged recovery. 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 27.01.2023, only 03 prosecution witnesses have been examined so far out of total 12 witnesses. Hence, there is no likelihood of the trial being completed in near future. The petitioner has falsely been implicated in one more case of similar nature but he is on bail in that case and the same involves non-commercial quantity of the contraband. The petitioner has remained in custody for a period of about 02 years, 02 months and 25 days. He was granted concession of interim bail and has not misused the same. 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 along with the custody certificate of the petitioner has been filed by the respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations levelled against the petitioner as well as his criminal antecedents, he is not entitled to get benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

2025.PHHC.156263



6. As per the allegations, the petitioner was found to be in possession of aforesaid intoxicant drugs on 25.08.2022. The petitioner has undergone total custody of 02 years, 02 months and 25 days as an undertrial as per the custody certificate filed today in Court. He is shown to be on bail in another case registered against him. On going through the record, it is apparent that the trial is substantially delayed as only 03 prosecution witnesses have been examined so far out of total 12 witnesses, despite the fact that challan was presented way back on 27.01.2023. 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

2025.PHHC.156263



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.

12.11.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No