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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.12869 of 2025

Gurpreet Singh @ Budhu ... Petitioner

Versus

State of Punjab ... Respondent

1.	The date when the judgment is reserved	20.11.2025
2.	The date when the judgment is pronounced	28.11.2025
3.	The date when the judgment is uploaded on the website	29.11.2025
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Parminder Singh Sekhon, Senior Advocate,
with Mr. Parshant Kumar, Advocate,
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J.

1. The petitioner is seeking indulgence of this Court by filing the present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) for grant of regular bail in case arising out of FIR No.89 dated 23.11.2023 registered under Sections 22 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’) at Police Station Khanauri, District Sangrur, on the

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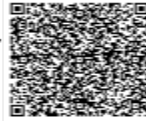


allegations that on 23.11.2023, he was found coming on foot by a police party patrolling in the area of Narwana road, Village Khanauri. He was holding a polythene bag and on seeing the police vehicle, had become perplexed and had taken turn and then after throwing the polythene bag, he started moving fast. Some tablets kept in the polythene bag were scattered. He was apprehended. On checking, the polythene bag was found to be containing 240 strips of intoxicating tablets of Mark Tramadol Prolonged release tablets. The total number of tablets was found to be 2400. Apart from that, 1100 tablets of Alprazolam were also found in the same polythene. These tablets were taken into possession by the police. The petitioner was formally arrested. The investigation now stands completed. His previous petition had been dismissed as withdrawn vide order dated 29.10.2024.

2. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. A false recovery has been planted upon him. He is in custody for a period of about two years. The trial is likely to take considerable time to conclude. His continued detention would not serve any useful purpose. His involvement in another case cannot be considered to be a reason for denying benefit of bail to him. He has already undergone the period of sentence in that case. With these broad submissions, it is urged that he deserves to be released on bail.

3. Per contra, learned Assistant Advocate General, Punjab has argued that there are serious and specific allegations against the petitioner. The rigors of Section 37 of NDPS Act are attracted in this case since commercial quantity of contraband was recovered from the conscious possession of the petitioner. He was convicted in another case under NDPS

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similar offences, if extended benefit of bail. It is, therefore, argued that the petition does not deserve to be allowed.

4. This Court has heard learned counsel for the parties at considerable length.

5. It is well-settled law that the Court, while considering an application for grant of bail, has to keep certain factors in mind such as whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence, circumstances which are peculiar to the accused, likelihood of the offence being repeated, the nature and gravity of the accusation, severity of the punishment in the event of conviction, the danger of the accused absconding or fleeing if released on bail, and reasonable apprehension of the witnesses being threatened, etc. However, at the same time, the period of incarceration is also a relevant factor to be considered while deciding whether bail should be granted to an accused charged with an offence under the provisions of the NDPS Act. The twin conditions under Section 37 of the NDPS Act are to be satisfied. The rigors of Section 37 of the NDPS Act are attracted in this case as the accusations pertain to the recovery of commercial quantity of contraband from the petitioner. However, so far as the maintainability of the petition is concerned, it may be mentioned that an accused has a right to make successive applications for grant of bail.

6. In the instant case, contraband of commercial quantity was recovered from him. The petitioner has remained in custody for a period of about two years. This factor, in the opinion of this Court, is a ground to move for bail afresh. The Hon'ble Apex Court has observed in a catena of

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cases that an accused cannot be kept in custody for an indefinite period of time, and the bail application can be considered on its own merits even if it is filed repeatedly. It has also been held that every day spent in custody can provide a new cause of action for filing a bail application under certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the rights of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since the settled principle of law is that detention prior to trial should not become punitive. Only 05 out of 18 witnesses have been examined by the prosecution till now. Obviously, the petitioner is not required for further investigation. It is true that grant of bail on account of delay in trial and long period of incarceration is to be considered in light of Section 37 of the NDPS Act. Reliance in this regard can be placed on the observations made by the Hon'ble Apex Court in ***Mohd. Muslim @ Hussain v. State (NCT of Delhi), 2023 SCC OnLine SC 352***, wherein it was held that grant of bail on account of undue delay in trial cannot be said to be fettered under Section 37 of the NDPS Act, given the imperative of Section 436A of Cr.P.C. which is applicable to offences under the Act. It was also observed that the jails are overcrowded and their living conditions are, more often than not, appalling. The danger of unjustified imprisonment is that inmates are more likely to be hardened rather than reformed. Reliance can also be placed upon ***Manmandal and Another v. State of West Bengal, Special Leave Petition (Criminal) No. 8656 of 2023 decided on 14.09.2023*** and ***Rabi Prakash v. State of Odisha, 2023 SCC OnLine SC 110***, wherein bail was granted to the accused, who had been

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incarcerated for a period of almost two to three years and the trial was likely to take considerable time. By observing that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution, and in such a situation, the constitutional principle must override the statutory embargo contained under Section 37 of the NDPS Act.

7. In view of the above discussion, this Court is of the opinion that a case is made out for grant of bail to the petitioner at this stage. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing personal as well as surety bonds to the satisfaction of the learned trial Court/CJM/Duty Magistrate concerned, and subject to the condition that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case. He shall appear before the learned trial Court on each and every date of hearing except when his presence has been exempted by the trial Court. He shall surrender his passport, if any, furnish details of his cell phone and Aadhaar card, and shall not change his mobile number(s) during the pendency of the trial.

8. It is clarified that the observations made above shall not be construed as an expression of opinion of this Court on the merits of the case and shall not influence the outcome of the trial in any manner.

28.11.2025
harjeet

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No