

2025:PHHC:064958



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

234

CRM-M-15373-2025 (O&M)

Date of decision: 16.05.2025

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

Present:- Mr. Yashpal Thakur, Advocate
for the petitioner.

Mr. Vivek Sharma, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the third petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of regular bail to the petitioner in FIR No. 19 dated 12.02.2021, registered under Section 15 of the NDPS Act, 1985 at Police Station Sirhind, District Fatehgarh Sahib. The first petition, bearing number CRM-M-29324-2021 was dismissed as withdrawn on 10.05.2022 and the second petition, bearing number CRM-M-52025-2022, was dismissed on 17.07.2024.

2. As per the allegations, the petitioner and co-accused Harchand Singh @ Billa were apprehended by a police party on 12.02.2021 and recovery 55 kgs. of poppy husk was effected from them. Now, they are facing trial before the learned trial Court.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The trial is substantially delayed and its conclusion would still take a long time. The petitioner is in custody since

2025:PHHC:064958



12.02.2021 barring period of interim bail. The prolonged incarceration has entitled the petitioner to seek bail. The petitioner had not misused the concession of interim bail. It is, therefore, urged that the petition deserves to be allowed and the petitioner deserves to be released on bail.

4. Status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has opposed the prayer made by the petitioner on the ground that commercial quantity of contraband was recovered from the petitioner and co-accused. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

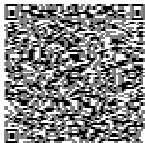
6. As per the allegations, the petitioner and above named co-accused were apprehended by the police party on 12.02.2021 and recovery of 55 kgs. of poppy husk was effected from them. A perusal of the status report reveals that though the petitioner was convicted in one more case of similar nature for two months but he has undergone the sentence. It is also reflected that the trial is still at the stage of recording the prosecution evidence, despite the fact that *challan* was presented on 01.07.2021 and 05 prosecution witnesses are still remained to be examined. The trial is obviously delayed and there is no likelihood of the same to conclude in near future. The petitioner is in prolonged incarceration of more than three and half years. 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

2025:PHHC:064958



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

2025:PHHC:064958



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.

16.05.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No