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

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**CRM-M-16858-2025 (O&M)
Date of decision: 23.05.2025**

Vikram**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Sandeep Kumar Goyat, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition that has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No. 385 dated 13.10.2022, registered under Section 20(b)(ii)C of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Uklana, District Hisar. The previous petition, bearing number **CRM-M-9247-2024**, was dismissed as withdrawn on 08.05.2024.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 13.10.2022, on the basis of a secret information, the petitioner was apprehended by the police party and recovery of 18 kgs. and 900 grams of Sulfa (Charas) was effected from him. Upon interrogation, the petitioner nominated co-accused Parveen Kumar and Amit Kumar as the persons, who had financed and helped him in procuring the contraband. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was presented on 07.06.2023 in the Court and

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presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offence.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. In fact, a false recovery was planted upon him. Mandatory provisions of the NDPS Act were not complied with properly. The petitioner was in fact picked up from village Bithmada on 13.10.2022 and was brought to a place near Railway line, Kundanpura Chowk, Uklana, where the recovered contraband was planted upon him. Even otherwise, investigation has since been completed and challan has been presented way back on 07.06.2023. There are total 20 cited prosecution witnesses. However, none has been examined so far, which shows that the trial is substantially delayed. The petitioner is in custody since 13.10.2022. He is not involved in any other case. His custodial interrogation is no more required. In view of the substantial delay in trial, the petitioner is entitled to get benefit of bail. 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. It is submitted therein and learned Assistant Advocate General, Punjab has argued that the petitioner is not entitled to get benefit of bail as he was nabbed at the spot and recovery of commercial quantity of the contraband was effected from him. 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.

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6. As per the allegations, the petitioner was apprehended by the police party on 13.10.2022 and recovery of 18 kgs. 900 grams of Sulfa (Charas) was effected from him. The quantity of the alleged contraband is obviously falls within the ambit of commercial quantity. However, a perusal of the record reveals that despite the fact that challan was presented on 07.06.2023, no witness has been examined so far, although a period of about 02 years has passed since then. The case is now fixed for recording the statements of the prosecution witnesses. The trial is obviously delayed and there is no likelihood of the same to conclude in near future. The petitioner is in long incarceration of more than 02 years and 07 months. 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

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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. The custodial interrogation of the petitioner is no more required. Hence, given the peculiar facts of the case, the conditions provided under Section 37 of the NDPS Act can be dispensed with. Accordingly, 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.

23.05.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No