

2025:PHHC:113829



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

CRM-M-19408-2025 (O&M)

Reserved on : 20.08.2025

Pronounced on : 27.08.2025

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

Present:- Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J.

1. The instant one is the second petition that has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to him in case bearing FIR No. 122 dated 27.05.2023, registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Sections 25 and 27 of the Arms Act, 1959 at Police Station Jandiala, Amritsar. The first petition, bearing **CRM-M-43191-2024**, was dismissed by this Court on 09.12.2024.

2. The petitioner has been booked in the aforesaid case on the allegations that he along with co-accused Hardev Singh and Sahib Singh @ Saba was apprehended by a police party on 27.05.2023 and recovery of 260 grams of heroin, a country made pistol of .315 bore and a *kirch* was effected from them. The petitioner is in custody since 27.05.2023 and is facing trial.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. Mandatory provisions of the NDPS Act were not complied with properly. Even otherwise, investigation has been

2025:PHHC:113829



completed long back and *challan* has been presented in Court. However, trial is substantially delayed as even though *challan* was presented on 28.11.2023, out of total 11 prosecution witnesses, none has been examined so far and there is no likelihood of the trial being completed in near future. The petitioner is in custody since 27.05.2023. In view of substantial delay in trial, the petitioner is entitled to get benefit of bail. More so, similarly situated co-accused Hardev Singh @ Deba has already been granted concession of regular bail by this Court, vide order dated 26.02.2024 passed in **CRM-M-64867-2023**. On the grounds of parity, the petitioner too deserves to be granted the same benefit. 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. Learned Assistant Advocate General, Punjab has argued that keeping in view the gravity of the allegations levelled against the petitioner, he is not entitled to get benefit of bail. 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 along with above named co-accused was found to be in possession of 260 grams of heroin and some illegal weapons on 27.05.2023. Co-accused Hardev Singh @ Deba has already been granted concession of bail by this Court, as mentioned above. On going through the record, it is apparent that the trial is substantially delayed as no witness has been examined so far out of total 11 witnesses, despite the fact that *challan* was presented way back 28.11.2023. The petitioner has been in long incarceration of more than 02 years and 03 months. The trial is obviously delayed and there is no likelihood of the same to conclude in near future.

2025:PHHC:113829



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

2025:PHHC:113829



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 bonds and two sureties 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. The petitioner shall deposit his passport, if any, with the learned trial Court and shall not travel abroad without prior permission of the Court.

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.

27.08.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

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