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

CRM-M-21023-2025 (O&M)

Reserved on : 27.08.2025

Pronounced on : 02.09.2025

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

Present:- Mr. A. S. Khinda, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J.

1. The instant one is the third petition that has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case bearing FIR No. 295 dated 13.11.2021, registered under Sections 15(C) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Sultanpur Lodhi, District Kapurthala. The previous petitions were dismissed as withdrawn.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 13.11.2021, when Sub Inspector Harjeet Singh along with the police party was going from Police Station to Village Totti to Village Rampur Jagir, they met Inspector Surjit Singh I/C, C.I.A. Staff, Kapurthala with police party, in connection with patrolling duty and search of bad elements. When they reached half kilometer ahead of Village Sherpur Dona, they noticed that one Innova car (light golden colour) was parked on the path and there was a katcha rasta on left hand side going towards fields, where a

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truck was also parked; in front of which, six persons were filling the sacks; and upon seeing the police party, four of the said persons fled away from the spot in their Innova car, whom Sub Inspector Harjeet Singh and Assistant Sub Inspector Gurdeep Singh already knew by their names, as Gurdit Singh @ Gittu, his brother Tikka Singh, Didar Singh @ Kaddu and Parmatma Singh @ Bhola. The said Innova car was chased by Inspector Surjit Singh and police party and in the meanwhile, the remaining two persons also tried to flee away from the spot by starting the truck but they were apprehended by the police party. Upon enquiry, the person driving the truck disclosed his name as Gurcharan Singh, whereas the person apprehended from the cleaner side disclosed his name as Sandeep Singh, who is the present petitioner. Thereafter, search of the truck was conducted and recovery of 18 bags containing 270 kgs. of poppy husk was effected. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for commission of aforementioned offences.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. Mandatory provisions of Section 50 of the NDPS Act were not complied. No independent witness was joined at the time of effecting alleged recovery. The truck in question did not belong to the petitioner. 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 09.05.2022, only one witness has been examined so far out of total 16 prosecution witnesses and there is no likelihood of the trial being completed in near future. The petitioner is in custody since 13.11.2021 i.e. for the last more than 03 years

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and 09 months. In view of 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. 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 co-accused Gurcharan Singh was apprehended by the police party on 13.11.2021, whereas above mentioned four co-accused succeeded in running away from the spot. Recovery of 270 kgs. of poppy husk was effected from the aforesaid on which the petitioner was found to be working as cleaner. The petitioner is in custody since the date of registration of the FIR. On going through the record, it is apparent that the trial is substantially delayed as only 01 prosecution witness has been examined so far out of total 16 witnesses, despite the fact that challan was presented way back 09.05.2022. The petitioner has been in long incarceration of more than 03 years and 09 months. 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

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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 furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply

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for cancellation of bail in case the petitioner is found involved in any other subsequent case.

8. 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.

02.09.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No