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

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CRM-M-22542-2025 (O&M)

Date of decision : 19.11.2025

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

Present:- Mr. Amit Arora, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J.(Oral)

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in case bearing FIR No. 10 dated 09.02.2024, registered under Section 25 of the Arms Act, 1959 (Offence under Section 21-C of the NDPS Act added and offences under Sections 25(6), (7) and (8) of the Arms Act and Sections 10, 11 and 12 of the Aircraft Act, 1934 deleted later on) at Police Station Sarai Amant Khan, District Tarn Taran.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 09.02.2024, a secret information was received to the effect that the petitioner and co-accused Yadbir Singh @ Yadu were indulged in smuggling of illegal arms with Pakistani smugglers and on that very day, they were coming to village Naushehra Dhala on a motorcycle for supplying illegal weapons. Believing the information to be reliable, a barricade was laid at the informed place and the petitioner, while coming on a motorcycle with the said co-accused, was apprehended by the police party. On search, two illegal

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pistols made in Austria along with magazines were recovered from the petitioner. On search of the co-accused, recovery of one pistol of .30 bore was effected from him. They suffered disclosure statements admitting that the recovered arms were procured by them from Pakistani smugglers. The petitioner also disclosed that he had got smuggled heroin through drone from Pakistani smuggler Chacha Pehalwan and got recovered 520 grams of heroin from a place demarcated by him. After completion of necessary investigation and usual formalities, *challan* under Section 193 of BNSS was presented before the Court on 05.08.2024 and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. A false recovery of illegal arms and heroin was planted upon him. He is in custody since 09.02.2024. 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 05.08.2024, no prosecution witness has been examined so far. Hence, there is no likelihood of the trial being completed in near future. No other case is pending against him. In view of substantial delay in trial, the petitioner is entitled to get benefit of bail as no useful purpose would be served by keeping him 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 State counsel 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.

This Court has heard the rival submissions.

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6. As per the allegations, the petitioner along with the above named co-accused was found to be in possession of two illegal pistols and magazines on 09.02.2024. Subsequently, during investigation, recovery of 520 grams of heroin is alleged to have been effected at the instance of the petitioner. 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 no witness has been examined so far out of total 18 witnesses, despite the fact that challan was presented way back 05.08.2024. The petitioner has been in long incarceration. No other case is pending against him. The trial is obviously delayed and there is no likelihood of the same to conclude in near future. The petitioner is shown to be on bail in another case registered against him. 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

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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 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.

19.11.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No