

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

222+111

CRM-M-25091-2025(O&M)

Date of decision: 1st December, 2025

Rahul @ Rahul Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rahil Mahajan, Advocate for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

CRM-46859-2025

This application has been filed by the applicant for placing on record the reply to status report on behalf of the petitioner.

For the reasons mentioned in the application, the same is allowed, subject to all just exceptions. Reply is ordered to be taken on record.

Main case

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 101 dated 05.09.2023 registered under Sections 21(c), 25 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') (Section 29 of NDPS Act and Section 25 of Arms Act, 1959 were added later on) at Police

Station Kathu Nangal, District Amritsar Rural.

2. The aforementioned FIR was registered on the allegations that on 05.09.2023, on the basis of a secret information, accused Harpreet Singh @ Lovely was apprehended and 15 kgs of heroin was recovered from his conscious possession. He was formally arrested. The recovered contraband was taken into possession. He suffered disclosure statement to the effect that he along with the present petitioner and co-accused Gagandeep Singh @ Gaggu @ Haddi, Harpreet Singh @ Happy were involved in the smuggling and sale of heroin. Offence under Section 29 of NDPS Act was added. The petitioner who was in custody in some other case was arrested on 11.12.2023 in the present case and was interrogated. He too suffered disclosure statement admitting his involvement in the crime and got recovered 265 grams of heroin and 155.490 grams of gold and a creta car, which was parked in the house of co-accused Gagandeep Singh. The remaining accused were also arrested. The petitioner along with the co-accused is facing trial for the aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of a disclosure statement of the co-accused which cannot be considered to be admissible in evidence. He was taken into custody after a lapse of two months from the date of registration of the FIR. A false recovery has been planted upon him. The version of the prosecution is very improbable and unnatural as being in custody in some other case, there were no chances of his hiding the contraband or gold as alleged by the prosecution. His involvement in other cases cannot be considered to be a reason for denying benefit of bail to him.

Trial is likely to take considerable time to conclude as out of 25 prosecution witnesses, none has been examined so far. No useful purpose would be served by keeping him in custody anymore. It is, therefore, argued that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that there are serious and specific allegations against the petitioner. Recovery of commercial quantity of contraband has been effected from him. Rigors of Section 37 of NDPS are attracted in this case qua him as well as the co-accused. He has criminal antecedents. There are chances of his absconding or committing the similar offence if extended benefit of bail. It is, therefore, argued that the petition does not deserve to be allowed.

5. This Court has heard learned counsel for the parties at considerable length.

6. The petitioner is in custody since 11.12.2023 i.e. for a period of about two years. Trial will likely to take time. On going through the record, it is apparent that the trial is substantially delayed as none has been examined so far out of total 25 prosecution witnesses. 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 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. 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.

8. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

1st December, 2025
Parveen Sharma
1. Whether speaking/ reasoned
2. Whether reportable

: Yes / No
: Yes / No