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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-26654-2025

Date of decision: 19th December, 2025

Varun Sharma

...Petitioner

Versus

Union of India

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Yashpal Thakur, Advocate for the petitioner.

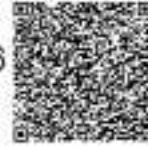
Mr. Rajiv Sharma, Special Public Prosecutor with
Ms. Indu Bala Sharma, Advocate and
Mr. Vinayak Attri, Advocate for the respondent-NCB.

MANISHA BATRA, J (ORAL):-

1. The instant petition has been filed for grant of regular bail to the petitioner in case bearing NCB Crime No. 43/2022 dated 18.06.2022, registered under Sections 8, 20, 29 and 60 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station NCB Chandigarh, District Rupnagar.

2. As per the allegations, on 18.06.2022, on the basis of a secret information, the petitioner and co-accused Leena Sharma were apprehended along with one Maruti Swift car and 3.625 kgs. of Charas was recovered from their conscious possession. They were formally arrested. Recovered contraband was taken into custody. The petitioner was interrogated and he

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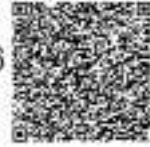
suffered disclosure statement to the effect that the co-accused Ved Ram had got a cavity built in the car from where, the recovery was effected and that he was involved in the trade of sale/purchase of contraband. Said co-accused Ved Ram was as such nominated as additional accused. He was arrested on 05.05.2023. Other co-accused were also arrested during the course of investigation. Now investigation stands completed and 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. He is in custody for a period of about 03 years, 06 months. The trial will take considerable time to conclude. He has clean antecedents. His continued detention would not serve any useful purpose. Co-accused Ved Ram and Leena Sharma have been extended benefit of bail. On parity, he too deserves to be extended the same benefit. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be released on regular bail.

4. *Per contra*, learned Special Public Prosecutor, Chandigarh has argued that taking into consideration the fact that commercial quantity of the contraband was recovered at his instance, the petitioner does not deserve to be released on bail. It is also argued that if the petitioner is released on bail, he may abscond or indulge in the similar offences. Therefore, it is stressed that the petition does not deserve to be allowed.

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

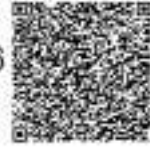
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6. The well settled proposition of law is that the Court while considering an application for grant of bail has to keep certain factors in mind, such as, whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of accused absconding or fleeing, if released on bail and reasonable apprehension of the witnesses being threatened. The period of incarceration is also relevant fact that is to be considered. It is also unequivocally established that, to be granted bail, the accused charged with offence under the provisions of NDPS Act must fulfill the conditions stipulated in Section 37 of the Act. A contention has been raised that the rigors of Section 37 of the NDPS Act are attracted in the present case as there is recovery of commercial quantity of contraband.

7. In the instant case, contraband of commercial quantity was recovered from him. The petitioner has remained in custody for a period over 03 years and 06 months. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time. It has also been held that every day spent in custody can provide a new cause of action for filing a bail application under certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the rights of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for

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reconsideration of bail since the settled principle of law is that detention prior to trial should not become punitive. It is true that grant of bail on account of delay in trial and long period of incarceration is to be considered in light of Section 37 of the NDPS Act. Reliance in this regard can be placed on the observations made by the Hon'ble Apex Court in *Mohd. Muslim @ Hussain v. State (NCT of Delhi), 2023 SCC OnLine SC 352*, wherein it was held that grant of bail on account of undue delay in trial cannot be said to be fettered under Section 37 of the NDPS Act, given the imperative of Section 436A which is applicable to offences under the Act. It was also observed that the jails are overcrowded and their living conditions are, more often than not, appalling. The danger of unjustified imprisonment is that inmates are more likely to be hardened rather than reformed. Reliance can also be placed upon *Manmandal and Another v. State of West Bengal, Special Leave Petition (Criminal) No. 8656 of 2023 decided on 14.09.2023* and *Rabdi Prakash v. State of Odisha, 2023 SCC OnLine SC 110*, wherein bail was granted to the accused, who had been incarcerated for a period of almost two to three years and the trial was likely to take considerable time. By observing that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution, and in such a situation, the constitutional principle must override the statutory embargo contained under Section 37 of the NDPS Act.

8. In view of the above discussion and on parity, this Court is of the opinion that a case is made out for grant of bail to the petitioner at this stage.

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Accordingly, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing personal as well as surety bonds to the satisfaction of the learned trial Court, and subject to the condition that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case. He shall appear before the learned trial Court on each and every date of hearing except when his presence has been exempted by the trial Court. He shall surrender his passport, if any, furnish details of his cell phone and Aadhaar card, and shall not change his mobile number(s) during the pendency of the trial.

9. It is clarified that the observations made above shall not be construed as an expression of opinion of this Court on the merits of the case and shall not influence the outcome of the trial in any manner.

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

[MANISHA BATRA]
JUDGE

19th December, 2025

Parveen Sharma

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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |