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

**CRM-M-31308-2025 (O&M)
Date of decision : 01.09.2025**

Gurlal Singh @ Gurlali

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. P. S. Sekhon, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

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. 153 dated 19.07.2018, registered under Sections 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Chheharta, District Amritsar. The previous petition was dismissed as withdrawn.

2. Brief facts of the case relevant for the disposal of the present petition are that on 19.07.2018, the petitioner and co-accused Tega Singh were apprehended by a police party while coming on a motorcycle and recovery of 850 tablets of Alprazolam was effected from them. Co-accused Tega Singh was released on bail. He had died on 04.07.2020. The petitioner was granted concession of interim bail awaiting FSL report by the learned trial Court, vide order dated 04.10.2018. However, on receipt of the same, he did not surrender. Proclamation proceedings were initiated against him and

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ultimately he was declared a proclaimed offender. He was re-arrested on 17.08.2022. Since then, the petitioner is in custody and is facing trial.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He was granted concession of interim bail by the learned trial Court but on receipt of FSL report, challan was presented on his back and, therefore, he could not appear before the learned trial Court, resulting into cancellation of his bail and then into his declaration as proclaimed offender. It is further submitted that he was re-arrested on 17.08.2022 and since then he is in custody. 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 18.01.2022, the trial has not been concluded and still 06 witnesses are left to be examined and there is no likelihood of the trial being completed in near future. The petitioner is in custody for the last 02 years, 11 months and 25 days after his re-arrest and his total incarceration period is more than 03 years and 02 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.

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6. As per the allegations, the petitioner along with co-accused Tega Singh (since deceased) was apprehended by the police party on 19.07.2018 and recovery of 850 tablets of Alprazolam was effected from them. The petitioner is in custody since 17.08.2022 after his re-arrest and his total custody period in this case is 03 years, 02 months and 09 days. On going through the record, it is apparent that the trial is substantially delayed as out of 17 prosecution witnesses, 06 witnesses are yet to be examined, despite the fact that challan was presented way back 18.01.2022. The petitioner has been in long incarceration. 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 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

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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.

01.09.2025

Wassem Ansari(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No