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

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CRM-M-34247-2024 (O&M)

Date of decision: 31.07.2025

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

Present:- Mr. Sukhbir Maandi, 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 439 of Cr.P.C. for grant of regular bail to him in case bearing FIR No. 155 dated 09.07.2022, registered under Sections 22(C) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station City Tarn Taran, District Tarn Taran. The previous petition, bearing number **CRM-M-13630-2023**, was dismissed as withdrawn on 14.02.2024.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 09.07.2022, the petitioner along with co-accused Shiv Kumar @ Shiv was apprehended by a police party and recovery of 1368 intoxicating tablets (Tramadol HCL and Pregabalin) was effected from them. Since they could not produce any valid license or permit to keep in their possession the recovered drugs, they were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* under

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Section 173 of Cr.P.C. was presented on 04.01.2023 in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid mentioned offence.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. In fact, a false recovery was planted upon him. He is not involved in any other case and has clean antecedents. Mandatory provisions of the NDSP Act were not properly complied with. Even otherwise, investigation stands completed and *challan* has been filed. Conclusion of trial is likely to take time. The petitioner is in custody since 09.07.2022. There are total 11 cited prosecution witnesses. Despite the fact that *challan* was presented in the Court on 04.01.2023, only two prosecution witnesses have been partly examined so far. Hence, the trial is substantially delayed and its conclusion would take a long time. 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 Assistant Advocate General, Punjab has argued that keeping in view the gravity of the allegations, the petitioner 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 and above co-accused co-accused were apprehended by the police party and recovery of 1368 intoxicating tablets was effected from them. The quantity of the alleged contraband obviously falls under commercial quantity. A perusal of the status

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report reveals that out of total 11 prosecution witnesses, only two witnesses have been partly examined so far, despite the fact that *challan* was presented way back on 04.01.2023. The trial is obviously delayed and there is no likelihood of the same to conclude in near future. The petitioner is in long incarceration of more than 03 years. He is not involved in any other case. 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

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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.

31.07.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>