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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32001-2025
Date of decision: October 28, 2025

Mandeep @ Dholu
.....Petitioner
versus
State of Haryana
.....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. K.S. Siwach, Advocate for the petitioner.
Mr. Vishal Singh, AAG Haryana.

SUMEET GOEL, J. (ORAL)

Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’) for grant of regular bail to the petitioner in case bearing FIR No.270 dated 03.09.2024, registered for the offences punishable under Sections 22(C), 27A, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’), at Police Station Sadar Tohana, District Fatehabad.

2. The petitioner was afforded concession of interim regular bail vide order dated 29.07.2025, which reads thus:

- “1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’) for grant of regular bail to the petitioner in case bearing FIR No.270 dated 03.09.2024, registered for the offences punishable under Sections 22(C), 27A, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’), at Police Station Sadar Tohana, District Fatehabad.
2. The gravamen of the FIR in question is that the petitioner is an accused of being involved in FIR pertaining to NDPS Act involving the following contraband:

“(i) 152 strips (containing 15 tablets each i.e. total 2280 tablets) of Alprazolam, having total weight of 512 grams;

(ii) 50 strips (containing 10 tablets each i.e. total 500 tablets) of Alprazolam, having total weight of 107 grams and

(iii) 75 strips (containing 10 tablets each i.e. total 750 tablets) of Tramadol, having total weight of 444 grams.”

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 14.10.2024. Learned counsel for the petitioner has further submitted that the mandatory provisions of the NDPS Act have not been complied with, and thus, the prosecution case suffers from inherent defects. Learned counsel for the petitioner has iterated that the trial is delayed and the liability thereof cannot be fastened upon the petitioner. Learned counsel has further iterated that the petitioner has suffered incarceration for more than 09 months. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, thus, he does not deserve the concession of the regular bail. Learned State counsel has further submitted that the instant bail plea is barred by the rigors of Section 37 of the NDPS Act, and thus, the same ought to be dismissed. Learned State counsel seeks to place on record custody certificate dated 21.07.2025 in Court, which is taken on record.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. The petitioner was arrested on 14.10.2024 whereinafter investigation was carried out and challan was presented on 24.02.2025. Total 29 prosecution witnesses have been cited, but none has been examined till date. The prime prosecution evidence available against the petitioner is in the shape of disclosure statement of one Vinod Kumar @ Bondi, who was in turn, arrayed as an accused on the disclosure statement of another co-accused, namely, Vinod alias Vilayati. The rival contentions raised at Bar give rise to debatable issues, which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1. A perusal of the zimni orders passed by the trial Court, brought forth by the petitioner, especially the zimni orders dated 03.04.2025 & 17.05.2025, indicate that the trial is procrastinating and folly thereof cannot be saddled upon the petitioner. As per custody certificate dated 21.07.2025 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of more than 09 months.

6.2. This Court in a judgment titled as **Kulwinder versus State of Punjab** passed in **CRM-M-64074-2024** (2025:PHHC:002695); after relying upon the ratio decidendi of the judgments of the Hon'ble Supreme Court in *Hussainara Khatoon vs. Home Secy., State of Bihar* (1980) 1 SCC 81; *Abdul Rehman Antulay vs R.S. Nayak* (1992) 1 SCC 225; *Javed Gulam Nabi Shaikh vs. State of Maharashtra* and another, 2024(3) RCR (Criminal) 494; *Mohd Muslim @ Hussain vs. State (NCT of Delhi)* reported as 2023 INSC 311; *Criminal Appeal No.245/2020* dated 07.02.2020 titled as “*Chitta Biswas Alias Subhas vs. The State of West*

Bengal”; “Nitish Adhikary @ Bapan vs. The State of West Bengal”, Special Leave to Appeal (Crl.) No.5530-2022 dated 22.08.2022 titled as “Mohammad Salman Hanif Shaikh vs. The State of Gujarat”; Criminal Appeal No.1169 of 2022 dated 05.08.2022 titled as Gopal Krishna Patra @ Gopalrusma vs. Union of India, and Ankur Chaudhary vs. State of Madhya Pradesh, 2024(4) RCR (Criminal) 172; has held, thus:

“7.8. The right to a speedy and expeditious trial is not only a vital safeguard to prevent undue and oppressive incarceration; to mitigate anxiety and concern accompanying the accusation as well as to curtail any impairment in the ability of an accused to defend himself, but there is an overarching societal interest paving way for a speedy trial. This right has been repeatedly actuated in the recent past and the ratio decidendi of the above-referred to Supreme Court’s judgments have laid down a series of decisions opening up new vistas of fundamental rights. The concept of speedy trial is amalgamated into the Article 21 as an essential part of the fundamental right to life and liberty, guaranteed and preserved under our Constitution. The right to speedy trial begins with the actual restraint imposed at the time of the arrest of the accused and consequent incarceration which continues at all stages, namely, the stage of investigation, inquiry, trial, appeal and revision so that any possible prejudice that may result due to impermissible and avoidable delay since the time of the commission of the offence till the criminal proceedings consummate into a finality, could be averted. The speedy trial, early hearing and quick disposal are sine qua non of criminal jurisprudence. The overcrowded Court-dockets, the heavy volume of work and the resultant pressure on the prosecution and the Police, indubitably keeps the entire criminal jurisprudential mechanism under stress and strain. However, this cannot be an excuse for keeping the sword of Damocles hanging on the accused for an indefinite period of time. It does not serve any credit to the criminal justice system, rather it makes for a sad state of affairs. The guarantee of a speedy trial is intended to avoid oppression and prevent delay by imposing on the Court and the prosecution an obligation to proceed with the trial with a reasonable dispatch. The guarantee serves a threefold purpose. Firstly, it protects the accused against oppressive pre-trial imprisonment; secondly, it relieves the accused of the anxiety and public suspicion due to unresolved criminal charges and lastly, it protects against the risk that evidence will be lost or memories dimmed by the passage of time, thus, impairing the ability of the accused to defend himself. It goes without saying that the consequences of pre-trial detention are grave. Accused, presumed innocent, till proven otherwise, are subjected to psychological and physical deprivations of jail-life, usually under onerous conditions. Equally important, the burden of detention of such an accused frequently falls heavily on the innocent members of his family.

There is yet another aspect of the matter which deserves consideration at this stage. The allegations in the present case relate to accused being involved in an FIR relating to commercial quantity of contraband under the NDPS Act, 1985. While considering a bail petition in a case involving commercial quantity, the Court has to keep in mind the rigours enumerated under Section 37 of NDPS Act, 1985 which mandates that Courts can grant bail to an accused only after hearing the public prosecutor and after having satisfied itself of twin conditions which are reasonable grounds for believing that the accused is not guilty of the offence charged/alleged and that, he is not likely to commit any offence while on bail. The stringent rigours of Section 37 of the NDPS Act, 1985 must be meticulously scrutinized against the backdrop of accused’s

fundamental right to a speedy trial. The right to life and personal liberty cannot be rendered nugatory by unwarranted delays in the judicial process, particularly where such delay(s) is neither attributable to the accused nor justified at the end of the prosecution by cogent reasons. An individual cannot be kept behind bars for an inordinate period of time by taking refuge in rigours laid down in Section 37 of the NDPS Act, 1985. The legislature in its wisdom, in order to ensure speedy and timely disposal of the cases under the Act, has provided for the constitution of special Courts under Section 36-A of the Act. However, this Court cannot turn Nelson's eye to the protracted delays and systematic inefficiency that frustrate this legislative purpose. A Court of law is duty-bound to ensure that it does not become complicit in violation of an individual's fundamental rights, notwithstanding anything contained in a statute. While dealing with bail petition in a case governed by the rigours of Section 37 of the NDPS Act, 1985, the Court must strike a judicious balance between the legislative intent to curb the menace of drugs and the sacrosanct right of the accused to a fair and expeditious trial. Prolonged incarceration, without justifiable cause, risks transforming pre-trial detention into punitive imprisonment, an outcome antithetical to the principle of justice and equity.

Ergo, the unequivocal inference is that where the trial has failed to conclude within a reasonable time, resulting in prolonged incarceration, it militates against the precious fundamental rights of life and liberty granted under the law and, as such, conditional liberty overriding the statutory embargo created under Section 37 of the NDPS Act, 1985 ought to be considered as per facts of a given case. In other words, grant of bail in a case pertaining to commercial quantity, on the ground of undue delay in trial, cannot be said to be fettered by Section 37 of the NDPS Act, 1985."

6.3. *Further, as per the said custody certificate, the petitioner is stated to be involved in 02 more cases. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail qua the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in **Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586**; a Division Bench judgment of the Hon'ble Calcutta High Court in case of **Sridhar Das v. State, 1998 (2) RCR (Criminal) 477** & judgments of this Court in CRM-M No.38822-2022 titled as **Akhilesh Singh v. State of Haryana**, decided on 29.11.2021, and **Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191**.*

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. *There is another aspect nay vital aspect of the matter which craves for attention of this Court.*

It has been repeatedly observed that official witnesses in NDPS cases—who, in most cases, comprise police personnel—are consistently failing to appear before the Court to tender their evidence, despite the issuance of bailable warrants and, in numerous instances, even non-bailable warrants. Alarmingly, there exist several cases where even bailable warrants remain unexecuted for extended periods, resulting in routine adjournments of trials under the NDPS Act solely on this count. This state of affairs reflects a deeply disturbing and systemic lapse in the prosecutorial mechanism, whereby the trial is stalled indefinitely due to

*the indifference or willful non-cooperation of official witnesses. Such conduct not only frustrates the right of the accused—whether incarcerated or on bail—to a speedy trial as enshrined under Article 21 of the Constitution of India, but also gravely undermines the administration of criminal justice. The abdication of duty by official witnesses, who are employees of the State, erodes public confidence in the justice delivery system and emboldens criminal elements by showcasing prosecutorial apathy. It sets a dangerous precedent where procedural laxity takes precedence over judicial efficacy. The resultant delay compromises deterrence and enables the recycling of narcotic offenders back into society during pendency of trial and obstructs the overarching objective of the NDPS Act—namely, the containment of the menace of drug trafficking and substance abuse. In effect, such dereliction by State officials, especially serving police officials, amounts to an affront to both rule of law and societal welfare. Senior police officials—in particular, at the helm of the police force at the district level, i.e. the concerned SSP/SP are also under a bounden duty to monitor the conduct of police officials and ensure their presence for tendering evidence before the concerned trial Court. This exhibition of laxity and apathy by the police officials deserves redressal. This seeming abdication of duty by the senior police officials, by not paying any heed to this conduct of police officials, under their supervision, is, thus, a malady to which this Court finds itself unable to turn a nelson's eye. A profitable reference in this regard is being made to the dicta passed by the Hon'ble Supreme Court in a case titled as **Hussainara Khatoon and Others versus Home Secretary, State of Bihar, Patna; 1980(1) SCC 98**, relevant whereof reads, thus:*

“10. xxxx xxxx xxxx The State cannot avoid its constitutional obligation to provide speedy trial to the accused by pleading financial or administrative inability. The State is under a constitutional mandate to ensure speedy trial and whatever is necessary for this purpose has to be done by the State. xxxx xxxx xxxx”

*The above dicta has been further reiterated by a Five Judge bench of the Hon'ble Supreme Court in **Abdul Rehman Antulay and others versus R.S. Nayak and another; 1992(1) SCC 225**. Furthermore, in a case titled as **Ranjan Dwivedi versus C.B.I., Through the Director General; 2012(8) SCC 495**, it was observed by the Hon'ble Supreme Court as under:*

“The guarantee of a speedy trial is intended to avoid oppression and prevent delay by imposing on the court and the prosecution an obligation to proceed with the trial with a reasonable dispatch. The guarantee serves a threefold purpose. Firstly, it protects the accused against oppressive pre-trial imprisonment; secondly, it relieves the accused of the anxiety and public suspicion due to unresolved criminal charges and lastly, it protects against the risk that evidence will be lost or memories dimmed by the passage of time, thus, impairing the ability of the accused to defend him or herself. Stated another way, the purpose of both the criminal procedure rules governing speedy trials and the constitutional provisions, in particular, Article 21, is to relieve an accused of the anxiety associated with a suspended prosecution and provide reasonably prompt administration of justice.”

8. *Before delving further into the matter and in view of the above prevenient ratiocination, this Court deems it appropriate to ordain, thus:*

(1) *The petitioner is ordered to be released on interim regular bail, till the next date of hearing before this Court, on his furnishing bail/surety*

bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned trial Court/Duty Magistrate, the petitioner shall remain bound by the following conditions:

- (i) The petitioner shall not mis-use the liberty granted.*
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.*
- (iii) The petitioner shall not absent himself on any date before the trial.*
- (iv) The petitioner shall not commit any offence while on bail.*
- (v) The petitioner shall deposit his passport, if any, with the trial Court.*
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.*
- (vii) The petitioner shall not in any manner try to delay the trial.*
- (viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after his being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.*

In case of breach of any of the aforesaid conditions and those which may be imposed by concerned trial Court/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State shall be at liberty to move for cancellation of bail of the petitioner;

(II) The Superintendent of Police, Fatehabad is directed to file an affidavit; on or before the next date of hearing, delineating therein:

i) Action(s) taken in the District Fatehabad in pursuance to notifications dated 20.02.2020 & 14.02.2025 (copies whereof have been appended as Annexures R-1 & R-2 with his affidavit) from 01.01.2025 till 15.07.2025, including punitive steps/ departmental enquiries (as also current status thereof) against delinquent police officials/ witnesses;

ii) Status of departmental enquiry against PW – Sandeep Kumar and PW – Ravinder Kumar in the case in hand.

9. Put up on 18.08.2025.

10. Be taken up in the urgent cause list.”

3. Learned State counsel has filed status report by way of an affidavit dated 23.10.2025 of Siddhant Jain, IPS, Superintendent of Police, Fatehabad in the Court today, which is taken on record. A copy thereof has been furnished to learned counsel for the petitioner.

4. Keeping in view totality of the factual milieu of the case in hand; especially reasons recorded in the order dated 29.07.2025, whereby, interim

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regular bail was afforded to the petitioner, the present petition is **allowed**; interim order dated 29.07.2025 is made absolute, subject to his furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned trial Court/Duty Magistrate, the petitioner shall remain bound by the following conditions:

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.
- (viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after his being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.

5. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned trial Court/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

6. Ordered accordingly.

7. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

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8. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

October 28, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No