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

CRM-M-35533-2025 (O&M)

Reserved on : 14.07.2025

Pronounced on : 16.07.2025

Pawan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Naresh Kumar Ganga, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J.

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 in case arising out of FIR No. 176 dated 18.07.2023, registered under Section 15(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Ding, District Sirsa. The first petition, bearing number **CRM-M-29597-2024**, which was decided along with the petitions moved by the co-accused, was dismissed by this Court on 03.12.2024. The operative part of the said order reads as under :

“7. As per the allegations, the petitioners were apprehended by the police party on 18.07.2023 while they were coming in aforesaid vehicle and recovery of 73 kgs. of poppy husk was effected from them, which falls under the commercial quantity. Hence, the rigors of

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Section 37 of the NDPS Act would certainly be attracted against the petitioners. As regards the arguments advanced by learned counsel for the petitioners with regard to non-compliance of the mandatory provisions of the NDPS Act during investigation by the police party, the same have direct bearing on the merits of the case, which cannot be looked into at this stage while deciding bail petitions filed under Section 439 of Cr.P.C. There is nothing on record to show that there would be any undue delay in conclusion of trial. The apprehension expressed by learned State counsel that the petitioners, if extended benefit of bail, may abscond or indulge in similar offences can also not be stated to be unfounded. The mere extended period of incarceration alone is not sufficient to grant benefit of bail to the petitioners. Keeping in view the discussion as made above, the quantity of recovered contraband, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioners do not deserve to be granted benefit of regular bail, at this stage. Hence, the petitions are dismissed.”

2. The only argument which has been raised by learned counsel for the petitioner for grant of regular bail to the petitioner is that extended period of incarceration has entitled the petitioner to be released on bail and therefore, it is urged by him that the petition deserves to be allowed.

3. Custody certificate of the petitioner has been filed by the respondent-State. It is submitted by learned Assistant Advocate General, Haryana that the previous petition as filed by the petitioner was dismissed by passing a detailed order by this Court by taking into consideration the

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contentions raised by both sides. It is submitted that no new change in the circumstances has been pointed out. The mere extended period of incarceration alone is not sufficient to grant benefit of bail to the petitioner. Allegations against the petitioner are quite serious in nature. Therefore, it is urged that the petition does not deserve to be allowed.

4. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

5. The previous petition as filed by the petitioner for grant of regular bail had been dismissed vide order dated 03.12.2024. The instant one has been filed within a period of four months of the said order. It is well settled proposition of law that when successive bail applications come before the Court, the Court should be very cautious while considering the same. Successive bail applications can be entertained by the Court when some substantial change is established by the accused thereby making him entitled for grant of bail. Reference in this regard can be made to ***State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 Supreme Court, 2292***, wherein it was observed so and it was further held that the Court should not pass an order of release of an accused on bail in successive bail application merely establishing some cosmetic change between time gap of two applications. There must be some drastic change during the period between two applications. Reference can also be made to ***Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and another (2004) 7 SCC 528***, wherein it was observed by Hon'ble Supreme Court that where the offence alleged against an accused is grave, bail cannot be granted only on the ground of long incarceration.

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6. After hearing the contentions as raised by learned counsel for the petitioner, I am of the considered opinion that no substantial or drastic change from the date of dismissal of the previous petition as moved by the petitioner has been pointed out or made out from the pleas taken by the petitioner. Merely the extended/prolonged period of incarceration or examination of some material witnesses is not a ground to extend any such benefit. There are serious and specific allegations against the petitioner. Keeping in view the nature and gravity of the offence, in my considered opinion, it is not a fit case to enlarge the petitioner on bail, especially in view of the fact that no drastic or material change in the circumstances has been made out. In view of the discussion as made above, but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

16.07.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No