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

1. CRM-M-37899-2024 (O&M)

Pankaj

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-2940-2025 (O&M)

Jaspreet Singh @ Sahil

...Petitioner

Versus

State of Punjab

...Respondent

Date of decision : 12.11.2025

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Fatehjeet Singh, Advocate
for the petitioner in CRM-M-37899-2024.

Mr. Tushar Sharma, Advocate
for the petitioner in CRM-M-3940-2025.

Mr. Roshandeep Singh, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This common order shall dispose of above mentioned two petitions as they arise out of the same FIR and seek similar relief.

2. Prayer in these petitions, filed under Section 439 of Cr.P.C., is for grant of regular bail to the petitioners in case bearing FIR No. 251 dated 31.10.2023, registered under Sections 21(C) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Division No. 8, District Jalandhar.

3. Brief facts of the case relevant for the purpose of disposal of this petition are that on 31.10.2023, the petitioners, while coming on a scooty,

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were apprehended by a police party and recovery of 01 kg. 200 grams of heroin was effected from the trunk of the said scooty. Both of them were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented in Court on 23.04.2024 and presently, the petitioners are facing trial for commission of aforementioned offences.

4. Learned counsel for the petitioners have argued that they have been falsely implicated in this case. Mandatory provisions of the NDPS Act were not complied with properly. No independent witness was joined at the time of effecting alleged recovery. 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 23.04.2024 and out of total 20 prosecution witnesses, only 06 witnesses have been examined so far and there is no likelihood of the trial being completed in near future. The petitioners are not involved in any other case of similar nature. They are in custody since 31.10.2023 i.e. for the last more than 02 years. In view of substantial delay in trial, the petitioners are entitled to get benefit of bail as no useful purpose would be served by keeping them in custody anymore. It is, therefore, urged that the petitions deserve to be allowed.

5. Separate status report along with the custody certificates of the petitioners have been filed by the respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations levelled against the petitioners, they are not entitled to get benefit of bail. Hence, it is urged that the petitions are liable to be dismissed.

6. This Court has heard the rival submissions.

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7. As per the allegations, the petitioners were found to be in possession of 01 kg. 200 grams of heroin on 31.10.2023. They are in custody since the date of registration of the FIR. On going through the record, it is apparent that the trial is substantially delayed as only 06 prosecution witnesses have been examined so far out of total 20 witnesses, despite the fact that challan was presented way back 23.04.2024. The petitioners have been in long incarceration of more than 02 years. 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 the authority cited as ***Bhupender Singh vs. Narcotic Control Bureau : (2022) 2 RCR (Criminal) 706***, wherein a Division Bench of

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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 petitioners in custody anymore. Accordingly, the present petitions are allowed. The petitioners are ordered to be released on regular bail, subject to their 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 petitioners are found involved in any other subsequent case.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petitions and the same shall have no bearing on the merits of the case.

9. Let a photocopy of this order be placed on the file of the connected case.

12.11.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No