

2025 PHHC 178066



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

206

CRM-M-38662-2025

Date of decision: 23rd December, 2025

Avtar Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Manjot Kaur, Advocate for the petitioner.

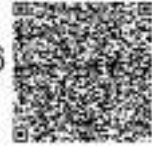
Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

MANISHA BATRA, J (ORAL):-

1. The present petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) for grant of regular bail in case arising out of FIR No.0159 dated 29.04.2023 registered under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’) (Sections 25 and 29 of NDPS Act added later on) at Police Station Sadar Pehowa, District Kurukshetra, Haryana.

2. As per the allegations, on 29.04.2023, a secret information was received by Sub Inspector Rishipal that the petitioner and co-accused Kamaljeet Singh were engaged in the business of sale of doda post/chura post after buying the same from States of Rajasthan and Madhya Pradesh at cheaper rates. It was further informed that on that day also, they were going

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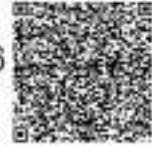


towards Pehowa in a car while carrying large quantity of contraband and could be apprehended. Believing the secret information to be true, a barricade was laid in the area of Village Murtazapur. Intimation was sent to the concerned police station. After sometime, the petitioner along with the co-accused reached at the spot in a car. Both of them were signalled to stop and were apprehended. On conducting search, 85 kgs. of poppy straw was recovered from their conscious possession which was taken into possession by the police. The petitioner and co-accused were formally arrested. Presently, they are facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Mandatory procedure under the provisions of NDPS Act have not been followed by the police. The co-accused Suraj Singh and Kamaljeet Singh have been extended benefit of bail. He is in custody since 29.04.2023. The trial is likely to take considerable time as only 02 out of 27 prosecution witnesses have been examined. He is on bail in other cases registered under the provisions of NDPS Act. There is no recovery from his conscious possession. His further incarceration is not going to serve any useful purpose. With these broad submissions, it is urged that he deserves to be released on bail.

4. *Per contra*, learned Deputy Advocate General, Haryana has argued that there are serious allegations against the petitioner. Commercial quantity of contraband was recovered from him and the co-accused. He was a

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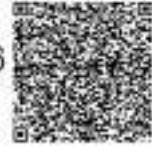


registered owner of the vehicle from which recovery was effected and was also found to be in conscious possession of the contraband. His antecedents are not clean. There are chances of his committing similar offences if extended benefit of bail. The rigors of Section 37 of NDPS Act are not attracted in this case. It is, therefore, argued that the petition does not deserve to be allowed. With these broad submissions, it is urged that he does not deserve to be released on bail.

5. This Court has heard learned counsel for the parties at considerable length.

6. The petitioner along with the co-accused was found to be in conscious possession of 85 kgs of poppy straw which was kept in a car owned by him and occupied by him as well as the co-accused Kamaljeet Singh. The allegations prima facie make out a case for commission of subject offences against him. However, he is in custody since 29.04.2023. He is on bail in other cases registered against him. The trial will obviously take time 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,***

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2024 (4) RCR (Criminal) 172. Reliance can also be placed upon *Mohd. Muslim @ Hussain vs. State (NCT of Delhi), 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 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 since only 02 out of 27 prosecution witnesses have been examined. 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 any more. Accordingly,

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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 learned trial Court/CJM/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.

8. Since the main petition has already been decided, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

23rd December, 2025
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |