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

CRM-M-42741-2024 (O&M)
Reserved on :04.08.2025
Pronounced on : 07.08.2025

Sandeep

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. R. S. Dhull, Advocate
for the petitioner.

Ms. Himani Arora, DAG, Haryana.

MANISHA BATRA, J.

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. 724 dated 30.12.2022, registered under Sections 20B(ii)(C) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Ladwa, District Kurukshetra. The first petition, bearing number **CRM-M-1074-2024**, was disposed of as not pressed.

2. Brief facts of the case relevant for the disposal of the present petition are that on 30.12.2022, on the basis of secret information, the petitioner was apprehended by a police party and recovery of 01 kg. 150 grams of Charas was effected from him. The petitioner was formally arrested as the spot. After completion of necessary investigation and usual formalities, *challan* was presented before the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

3. Learned counsel for the petitioners has argued that the petitioner

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has been falsely implicated in this case. Mandatory provisions of the NDPS Act were not complied with. The quantity of the recovered contraband is marginally higher than the commercial quantity. The petitioner is not involved in any other case and has clean antecedents. Even otherwise, investigation stands completed and *challan* has been filed. Conclusion of trial is likely to take time as the same is substantially delayed. The petitioner is in custody since 30.12.2022. The delayed trial and extended period of incarceration has entitled the petitioner to get bail. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be released on regular bail.

4. Status report has been filed by the respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations against the petitioner, he 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.

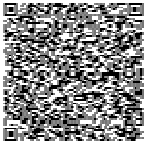
6. As per the allegations, the petitioner was found in possession of 01 kg. 150 grams of Charas on 30.12.2022. The quantity of the alleged contraband is marginally higher than commercial quantity. On going through the record, it is revealed that investigation has been completed and *challan* has been filed. However, out of total 23 prosecution witnesses, only 04 witnesses have been examined so far, despite the fact that *challan* was presented on 27.02.2023. 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 02 years and 07 months. Hon'ble Supreme Court in ***Rabi Prakash vs. State of Odisha : 2023***

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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 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

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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.

07.08.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No