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

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CRM-M-39945-2025 (O&M)
Date of decision : 10.11.2025

Pardeep**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. K. D. S. Hooda, Advocate
for the petitioner.

Ms. Himani Arora, DAG, Haryana.

MANISHA BATRA, J.(Oral)

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 to him in case bearing 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.

2. Brief facts of the case relevant for the disposal of the present petition are that on 18.07.2023, the petitioner along with co-accused Ramniwas @ Sonu and Pawan Kumar, while travelling in a vehicle bearing registration number HR-55-XX-7868, was apprehended by the police party and recovery of 73 kgs. of poppy husk was effected from the said vehicle. All of them were formally arrested at the spot. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

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3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. He is neither owner of the vehicle nor driver or conductor of the same. He was planted in the present case by the police by picking him up from his village. 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 only 04 prosecution witnesses have been examined so far out of total 19 witnesses and there is no likelihood of the trial being completed in near future. The petitioner is not involved in any other case and has clean antecedents. He is in custody since 18.07.2023 i.e. for the last more than 02 years and 03 months. In view of substantial delay in trial, the petitioner is entitled to get benefit of bail as no useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. Learned Deputy Advocate General, Haryana has argued that keeping in view the gravity of the allegations levelled 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. This Court has heard the submissions of both the sides.

6. As per the allegations, the petitioner was found to be an occupant of the aforesaid vehicle, from which recovery of 73 kgs. of poppy husk was effected and which was driven by co-accused Ramniwas @ Sonu having co-accused Pawan Kumar as conductor. The petitioner was sitting on the rear side of the said vehicle. He has clean antecedents. He is in custody since the

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the trial is substantially delayed as only 04 prosecution witnesses have been examined so far out of total 19 witnesses, despite the fact that challan was presented long back. The petitioner has been in long incarceration of more than 02 years and 03 months. 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 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

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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 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.

8. 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.

10.11.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No