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

CRM-M-43816-2025 (O&M)

Reserved on : 03.11.2025

Pronounced on : 06.11.2025

Gurcharan Singh @ Laddi**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Mandeep Singh, Advocate
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

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 to him in case bearing FIR No. 0046 dated 04.07.2022, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Ghagga, District Patiala. The previous petition was dismissed as withdrawn on 20.09.2024.

2. The aforementioned FIR was registered on the allegations that on 04.07.2022, on the basis of suspicion, the petitioner had been apprehended in the area of Overbridge Arnetu Road, Saharanpur, while he was riding a motorcycle and on conducting search, two boxes containing 1190 tablets of Tramadol Hydrochloride were recovered from a polythene bag hanging on the right handlebar of the motorcycle. The same were taken

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into possession. The petitioner was formally arrested. Investigation now stands completed.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. A false recovery has been planted upon him. He is in custody for the last more than 02 years and 05 months. He had withdrawn his previous petition inadvertently by making a statement before the Court that he had been convicted in this case, although he was convicted in another case bearing FIR No. 46 registered on 04.03.2020 at Police Station Gaga, which is the same police station where the FIR of this case was registered. The co-accused have been extended the benefit of bail. The trial will take considerable time to conclude since only 05 witnesses have been examined so far. His further incarceration is not going to serve any useful purpose. It is, therefore, urged that prolonged incarceration is a sufficient ground to extend the benefit of bail to him. With these broad submissions, it is urged that the petition deserves to be allowed and he deserves to be released on bail.

4. *Per contra*, learned State counsel has argued that the allegations against the petitioner are serious in nature. The trial is going on and will not take unreasonable time to conclude. The petitioner has criminal antecedents and he is a convict in a case of similar offence. There are chances of his absconding or committing similar offences, if extended the benefit of bail. It is, thus, urged that he does not deserve to be extended the benefit of bail.

5. This Court has considered the submissions made by both the sides.

6. The commercial quantity of contraband i.e. Tramadol

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Hydrochloride in the form of 1190 tablets, is alleged to have been recovered from the conscious possession of the petitioner. He is in custody for a period of about 02 years and 05 months. The trial is likely to take time to conclude as only 05 out of 22 witnesses have been examined so far. A copy of the previous order has been placed on record as Annexure P-3 and on a perusal of the same, it is clear that the previous petition filed by the petitioner was withdrawn under an impression by his counsel that the petitioner had been convicted in this case, though the FIR number of both the cases was the same. As such, it cannot be stated to be a successive bail application decided on merits in the previous petition. Reliance can be placed upon the judgments rendered by Hon'ble Supreme Court in ***Chitta Biswas @ Subhas Vs. the State of West Bengal, Law Finder Doc Id # 1938935, Amit Singh Moni Vs. State of Himachal Pradesh, 2023 (2) DC (Narcotics) 208, Kulwant Singh Vs. The State of Punjab, Law Finder Doc Id # 2760801, Nitish Adhikary @ Bapan Vs. the State of West Bengal, 2022 SCC Online SC 2068, Shariful Islam @ Sarif Vs. the State of West Bengal, 2022 SCC Online SC 2069, Mohammad Salman Hanif Shaikh Vs. the State of Gurjarat, Law Finder Doc Id # 2743151***, wherein in similar circumstances, the accused persons have been granted concession of bail.

7. The trial is obviously delayed in this case 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

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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 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

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his furnishing personal bonds and surety bonds by two sureties to the satisfaction of the trial Court/Duty Magistrate concerned and on the following conditions:-

- (i) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case in any manner whatsoever.
- (ii) he shall deposit his passport, if any, with the learned trial Court and shall not leave the country under any circumstance without permission of the learned trial Court.
- (iii) he shall appear before the learned trial Court as and when directed.
- (iv) he shall provide his address where he would be residing after release and shall not change the same without informing the concerned IO/SHO.
- (v) the petitioner shall upon his release give his mobile phone number to concerned IO/SHO and shall keep his mobile phone switch on all times.

8. In the event of there being any FIR/complaint lodged against the petitioner, it shall be open to the respondent to seek redressal by filing an application seeking cancellation of bail.

9. 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.

06.11.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No