



CRM-M-47155-2025

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-M-47155-2025

Date of decision: 18th November, 2025

Rajwinder Ram

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Jashandeep Singh Sandhu, Advocate for the petitioner.

Mr. Roshandeep Singh, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

The petitioner has been seeking indulgence of this Court by filing this petition for grant of regular bail in case arising out of FIR No. 173 dated 29.11.2023 registered under Section 22(c) of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short '*NDPS Act*') at Police Station Kabarwala, District Sri Muktsar Sahib, Punjab on the allegations that on 29.11.2023, the petitioner was apprehended by a police party on the basis of suspicion while he was riding a motor bike and recovery of three strips of Etizolam Tablets (i.e. total 30 tablets) were recovered from his conscious possession. The motor bike used by him was found to be registered in the name of his brother. He was formally arrested. Investigation now stands completed.

2. 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 a period of about two years. Trial will take considerable time to conclude. His further incarceration would not serve any useful purpose. It is, therefore, urged that the petition deserves to be allowed.

3. *Per contra*, learned State counsel has argued that the contraband recovered from the petitioner was of commercial quantity. No fresh ground has been pleaded so as to merit interference by this Court while considering the prayer for grant of bail. Therefore, it is urged that the petition does not deserve to be allowed.

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

5. It is well-settled law that the Court, while considering an application for grant of bail, has to keep certain factors in mind such as whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence, circumstances which are peculiar to the accused, likelihood of the offence being repeated, the nature and gravity of the accusation, severity of the punishment in the event of conviction, the danger of the accused absconding or fleeing if released on bail, and reasonable apprehension of the witnesses being threatened, etc. However, at the same time, the period of incarceration is also a relevant factor to be considered while deciding whether bail should be granted to an accused charged with an offence under the provisions of the NDPS Act. The twin conditions under Section 37 of the NDPS Act are to be satisfied. The rigors of Section 37 of the NDPS Act are attracted in this case as the accusations pertain to the recovery of commercial quantity of contraband from the



petitioner as well as from the co-accused. However, so far as the maintainability of the petition is concerned, it may be mentioned that an accused has a right to make successive applications for grant of bail, and it is the duty of the Court, while entertaining such a subsequent bail application, to consider the reasons and grounds on which the earlier bail petition was rejected. The fresh grounds which persuade the Court to take a view different from the one taken in the earlier application are also required to be recorded. Reference in this regard can be made to *Prasad Shrikant Purohit v. State of Maharashtra (2018) 11 SCC 458*, wherein it was so observed.

6. In the instant case, contraband of commercial quantity was recovered from him. The petitioner has remained in custody for a period of about two years. This factor, in the opinion of this Court, is a ground to move for bail afresh. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time, and the bail application can be considered on its own merits even if it is filed repeatedly. It has also been held that every day spent in custody can provide a new cause of action for filing a bail application under certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the rights of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since the settled principle of law is that detention prior to trial should not become punitive. Only 04 out of 22 prosecution witnesses have been examined by the prosecution till now. Obviously, the petitioner is not required for further investigation. It is true that grant of bail on account of delay in trial and long period of incarceration



is to be considered in light of Section 37 of the NDPS Act. Reliance in this regard can be placed on the observations made by the Hon'ble Apex Court in *Mohd. Muslim @ Hussain v. State (NCT of Delhi)*, 2023 SCC OnLine SC 352, wherein it was held that grant of bail on account of undue delay in trial cannot be said to be fettered under Section 37 of the NDPS Act, given the imperative of Section 436A which is applicable to offences under the Act. It was also observed that the jails are overcrowded and their living conditions are, more often than not, appalling. The danger of unjustified imprisonment is that inmates are more likely to be hardened rather than reformed. Reliance can also be placed upon *Manmandal and Another v. State of West Bengal, Special Leave Petition (Criminal) No. 8656 of 2023 decided on 14.09.2023* and *Rabdi Prakash v. State of Odisha*, 2023 SCC OnLine SC 110, wherein bail was granted to the accused, who had been incarcerated for a period of almost two to three years and the trial was likely to take considerable time. By observing that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution, and in such a situation, the constitutional principle must override the statutory embargo contained under Section 37 of the NDPS Act.

7. In view of the above discussion, this Court is of the opinion that a case is made out for grant of bail to the petitioner at this stage. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail on her furnishing personal as well as surety bonds to the satisfaction of the learned trial Court, and subject to the condition that he shall not directly or indirectly make any



inducement, threat or promise to any person acquainted with the facts of the case. He shall appear before the learned trial Court on each and every date of hearing except when his presence has been exempted by the trial Court. He shall surrender his passport, if any, furnish details of his cell phone and Aadhaar card, and shall not change his mobile number(s) during the pendency of the trial.

8. It is clarified that the observations made above shall not be construed as an expression of opinion of this Court on the merits of the case and shall not influence the outcome of the trial in any manner.

9. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

18th November, 2025

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*