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

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CRM-M No.47640 of 2025
Date of decision: 22.12.2025

Wazir Masih

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Gurpal Singh Sandhu, Advocate,
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The petitioner is seeking indulgence of this Court by filing the present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") for grant of regular bail in case bearing FIR No.0130 dated 29.07.2023 registered under Section 22(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station City Malout, District Sri Muktsar Sahib, on the allegations that on 29.07.2023, he along with the co-accused Jagmeet was found to be in conscious possession of commercial quantity of tablets of

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Colovidol. The previous two petitions as filed by the petitioner have been dismissed.

2. Learned counsel for the petitioner has argued that he is in custody for a period of 2 years, 04 months and 23 days. Only 07 out of 18 witnesses have been examined. There are no chances of conclusion of trial within reasonable time. His continued detention would not serve any useful purpose. His Prolonged custody militates against his fundamental right of liberty under Article 21 of Constitution of India. Each day in custody has served as a new ground for seeking benefit of bail. It is, therefore, argued that he deserves to be extended benefit of bail.

3. Per contra, learned Assistant Advocate General, Punjab while supporting the pleas as taken in the status report has argued that taking into consideration the gravity of the allegations, the fact that rigors of Section 37 of NDPS Act are attracted and coupled with the fact that the previous petitions as filed by the petitioner have been dismissed, it is argued that he does not deserve to be extended benefit of bail.

4. This Court has considered the rival submissions.

5. The petitioner is in custody since 29.07.2023. Commercial quantity of contraband was recovered from conscious possession of the co-accused and himself. No doubt, he had filed two petitions previously and the second petition had been dismissed on 19.02.2025 on the ground

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that it was his successive bail application. However, a period of more than 10 months has passed even thereafter. It is apparent from the record that there are no chances of conclusion of the trial in near future and it will take considerable time. It is well settled proposition of law that grant of bail on account of delay in trial and long period of incarceration is to be considered in the light of Section 37 of the NDPS Act. Reliance in this regard can be placed upon the observations made by 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 436-A of Cr.P.C. which is applicable to offence under the Act. It was also observed that 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 Rabi Prakash v. State of Odisha, 2023 SCC Online SC 110***, wherein the Hon'ble Supreme Court had extended benefit of bail to the accused who had been incarcerated for a long period by observing that prolonged incarceration militated against the most precious fundamental right

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guaranteed under Article 21 of the Constitution and in such a situation, the constitutional principles must override the statutory embargo contained under Section 37 of the NDPS Act.

6. Reliance can also be placed upon ***Santosh Pawar Vs. State of Chhattishgarh & Anr., Criminal Appeal No.4883/2025***, which is a recently pronounced verdict of Hon'ble Supreme Court observing that rigours of Section 37 of NDPS Act will not be a bar for considering the case of an accused for bail as it comes with a condition that the prosecution would press for an early completion of trial. In the above-mentioned case the Hon'ble Supreme Court of India held that appellant who was being prosecuted for being in possession of commercial quantity of narcotic substance, was entitled for bail in view of her incarceration for a period of 19 months.

7. Similarly in another case i.e. in the case of ***Satender Kumar Antil v. Central Bureau of Investigation, (2022) 10 SCC 51*** prolonged incarceration and inordinate delay engaged the attention of the Hon'ble Supreme Court of India, which considered the correct approach towards bail, with respect to several enactments, including Section 37 NDPS Act. The court expressed the opinion that Section 436A (which requires inter alia the accused to be enlarged on bail if the trial is not concluded within specified periods) of the Criminal Procedure Code, 1973 would apply.

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8. In the case of ***Ismail Khan @ Pathan vs. State of Rajasthan Crminal Appeal No.4911 of 2025*** with regard to recovery of commercial quantity of narcotic substance the Hon'ble Supreme Court of India accorded the benefit of bail to the accused in view of prolonged incarceration for a period of 02 years and 08 months of the accused.

9. The similar benefit has been taken in another appeal i.e. ***SLP No.15699-2025 titled as Ebrahim @ Ibrahim SK vs. The State of West Bengal*** and in the case of ***Pamesh Arora vs. UT Chandigarh Criminal Appeal No.4872 of 2025***.

10. On analyzing the peculiar facts and circumstances of the present case in the light of the aforementioned principles of law, it transpires that the petitioner has suffered prolonged incarceration for a period of 2 years, 04 months and 23 days, the trial is not likely to be concluded in near future as only 07 out of 18 witnesses have been examined; the continued detention of the petitioner is not likely to serve any fruitful purpose; there is nothing on record to show that if released on bail, the petitioner will not participate in the trial or will abscond.

11. 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 his furnishing personal as well as surety bonds to the

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satisfaction of the learned trial Court/CJM/Duty Magistrate concerned, 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.

12. 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.

22.12.2025
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No