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

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CRM-M-47839-2025 (O&M)

Date of decision: 03.11.2025

Ravinder Singh @ Raja @ Kadda**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Amit Arora, Advocate
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of regular bail to the petitioner in FIR No. 364 dated 29.08.2023, registered under Sections 21(C) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) and Section 25 of the Arms Act, 1959 at Police Station Goindwal Sahib, District Tarn Taran. The previous petition, bearing number **CRM-M-14679-2024**, was dismissed as withdrawn on 31.07.2024.

2. Brief facts of the case relevant for the disposal of the present petition are that on 29.08.2023, the petitioner and co-accused Buta Singh @ Buti, while coming on a motorcycle, were apprehended by a police party and recovery of 110 grams of heroin was effected from the co-accused, whereas 260 grams of heroin and one .32 bore pistol were recovered from the petitioner. Both of them were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented in the

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Court and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid mentioned offences.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. 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 despite the fact that *challan* was presented on 22.02.2024, only 04 prosecution witnesses have been examined so far out of total 12 witnesses and there is no likelihood of the trial being completed in near future. The petitioner is in custody since 29.08.2023 i.e. for the last more than 02 years and 02 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 the petitioner in custody anymore. Co-accused Buta Singh @ Buti has already been granted concession of regular bail by this Court. On parity, the petitioner too deserves the same benefit. Pendency of other cases cannot be considered to be a ground for denying him concession of bail in the given circumstances. Pendency of one more case of similar nature cannot be considered to be a ground for rejecting his claim for bail. It is, therefore, urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations levelled against the petitioner as well as his criminal antecedents, 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 made by both the sides.

6. As per the allegations, on 29.08.2023, the petitioner was found to

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be in possession of 260 grams of heroin, whereas co-accused Buta Singh @ Buti was found to be in possession of 110 grams of heroin. The petitioner is in custody since the date of registration of the FIR. However, co-accused Buta Singh @ Buti had been granted concession of regular bail by this Court. On going through the record, it is apparent that the trial is substantially delayed as only 04 prosecution witnesses have been examined so far out of total 12 witnesses, despite the fact that challan was presented way back 22.02.2024. The petitioner has been in long incarceration of more than 02 years and two 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***

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(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 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.

03.11.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No