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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-48279-2025

Date of decision: 9th December, 2025

Sunita @ Seeto

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rakesh Kumar Lathwal, Advocate for the petitioner.

Ms. Himani Arora, Deputy Advocate General, Haryana.

MANISHA BATRA, J (ORAL):-

The instant one is the third petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 159 dated 07.06.2024 registered under Sections 20, 27-A and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') at Police Station Safidon, District Jind. His first petition bearing CRM-M-49017-2024 was dismissed as withdrawn vide order dated 18.03.2025 and second petition bearing CRM-M-01.05.2025 was dismissed vide order dated 01.05.2025.

2. As per the allegations, on 07.06.2024, the accused Vinod and Pinki were apprehended on the basis of a secret information and 02 kgs 200 grams of *charas* was recovered from their conscious possession. The same

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along with the vehicle in which they were riding had taken into the possession by the police. The accused were formally arrested. They suffered disclosure statements to the effect that they had purchased the contraband from the present petitioner, who was involved in the business of sale of the same. The petitioner was nominated as an accused. She was arrested on 18.06.2024. She too suffered disclosure statement admitting her involvement in the crime and got recovered an amount of Rs. 5000/- as drug money. Investigation now stands completed.

3. It is argued by learned counsel for the petitioner that she has been falsely implicated in this case on the basis of disclosure statement of the co-accused which cannot be considered to be admissible in evidence. A false recovery of drug money has been planted upon her. No contraband had been recovered from her as such. The ingredients of Section 37 of NDPS Act are not attracted against her. She is on bail in other cases which have been registered against him. Her involvement in those cases cannot be considered to be a reason for denying benefit of bail to her. Trial will take considerable time to conclude. Ever since the date of the dismissal of her previous petition, a period of about seven months has expired but the trial has not proceeded anywhere as only 01 out of 21 prosecution witnesses has been examined so far. Her continued detention would not serve any useful purpose. It is, therefore, stressed that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that the present petition is not maintainable as previous petition of the petitioner had been

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dismissed by passing a detailed order. There is no new or substantive change in the circumstances. There is nothing on record to show that there would be any undue delay in conclusion of the trial. The petitioner is a habitual offender. There are chances of her absconding or committing similar offences if extended benefit of bail. It is therefore, argued that the petition does not deserve to be allowed.

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

6. The petitioner is alleged to have been involved in the business of sale of contraband and had allegedly supplied commercial quantity of the contraband to the co-accused. A sum of Rs. 5000/- is alleged to have been recovered from her in the form of drug money. However, it is only on thorough assessment of the evidence to be produced before the trial Court during trial that any conclusion can be drawn to the fact that the recovered money was drug money or not and also that as to whether any such recovery had in fact been effected. The petitioner is in custody for a period of over one year and five months. Trial will obviously take time. There is no likelihood of the same to conclude in near future. 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. 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. Hon'ble Supreme Court in ***Rabi Prakash vs. State of Odisha : 2023 Live Law (SC) 533*** has held that the prolonged incarceration,

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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 Article 21 of the Constitution of India *de-hors* the stringent provisions of Section 37 of the NDPS Act.

7. Reliance can also be placed upon ***Santosh Pawar Vs. State of***

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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.

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. Taking into consideration 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 her furnishing personal/surety bonds to the satisfaction

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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.

11. 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.

12. Since the main petition has already been disposed of, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

9th December, 2025

Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |