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

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CRM-M-48578-2025

Date of decision:01.12.2025

Dara Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Geetika Sharma, Advocate for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

...

Manisha Batra, J. (Oral).

The petitioner is seeking indulgence of this Court by filing this petition for grant of regular bail in case arising out of FIR No.67 dated 23.08.2023 registered under Sections 15-C and 25 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') at Police Station Sadar Budhlada, District Mansa, on the allegations that on 23.08.2023, he along with the co-accused Nagesh and Vinod Rathee, was found in conscious possession of 29 quintals of poppy husk being carried in a canter belonging to co-accused Sunil Parmar. He was formally arrested. Investigation now stands concluded.

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 was neither the driver nor the owner of the vehicle from which the

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alleged recovery has been effected and was only a passenger in the said canter. The mandatory provisions of Section 50 of the NDPS Act had not been followed by the Investigating Agency. No independent witness has been joined. He has been in custody since 23.08.2023. The trial is likely to take considerable time. He has clean antecedents. His continued detention would not serve any useful purpose. The co-accused Vinod Rathee has been extended benefit of bail. On parity, he too deserves to be given the same benefit. It is, therefore, urged that he deserves to be released on bail.

3. Status report has been filed. Learned State counsel has argued that there are serious allegations against the petitioner. Commercial quantity of contraband was recovered from the conscious possession of himself and the co-accused. Six prosecution witnesses have been examined. Trial may be expedited further. It is, therefore, urged that the petitioner does not deserve to be extended benefit of bail.

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

5. As per the allegations, the petitioner was found to be in possession of 29 quintals of poppy husk. The petitioner is in custody since the date of registration of the FIR. On going through the record, it is apparent that the trial is substantially delayed as only 06 prosecution witnesses have been examined so far out of total 15 witnesses, despite the fact that challan was presented way back 09.02.2024. There is no likelihood of the same to conclude in near future. Hon'ble Supreme Court in **Rabi**

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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 (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

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Section 37 of the NDPS Act. Therefore, keeping in view the aforementioned facts and circumstances and also the ratio of law as laid down in the aforecited authorities as well as on parity, 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.

6. 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.

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

01.12.2025*harjeet***(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No