IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2025:PHHC:175834

249 **CRM-M-59619-2025 (O&M)**
Date of decision:19.12.2025

Jasbir Singh ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Anurag Chopra, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

...

Manisha Batra, J. (Oral).

1. The instant one is the second petition for grant of regular bail as filed by the petitioner in case arising out of FIR No.155, dated 18.04.2024. registered under Sections 15-C, 27-A and 29 of the NDPS Act, at Police Station City Mandi Dabwali. His previous petition bearing No.CRM-M-62600-2024 was dismissed as withdrawn on 17.03.2025.

2. As per the allegations, on 18.04.2024, a secret information was received to the effect that the petitioner along with co-accused Parveen Kumar and Hardeep Singh @ Happy, was involved in smuggling of poppy husk and on that particular day also, they had loaded huge quantity of poppy husk in a truck and were going through Mandi Dabwali area for the purpose of unloading the contraband in their house and then selling it. Believing the secret information to be true, a raiding party was formed which laid a barricade at Chautala road. Sometime thereafter, the informed truck reached at the spot. The occupants thereof were given signal to stop the same. The

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petitioner was the driver of the truck. The other occupants were co-accused Hardeep Singh and Parveen Kumar. On conducting search, 07 plastic bags containing 01 quintal 40 kgs of poppy husk were found kept in the vehicle which were taken into custody by police. The petitioner and the co-accused were formally arrested. Investigation now stands concluded.

3. 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. The provisions of the NDPS Act had not been followed by the Investigating Agency. No Form 29 was sent along with samples to FSL. The trial will take considerable time to conclude. Further incarceration of the petitioner would not serve any useful purpose. It is, thus argued that the petition deserves to be allowed.

4. Per contra, learned State counsel while supporting the pleas as taken in the status report has argued that there are serious allegations against the petitioner. Commercial quantity of poppy husk was recovered from the conscious possession of the petitioner as well as co-accused. The petitioner is a habitual offender. There are chances of his committing similar offences again, if extended benefit of bail. Rigors of Section 37 of the NDPS Act are attracted in this case as commercial quantity of contraband had been recovered from him. There is no material or substantive change in the circumstances since the date of dismissal of his previous petition. It is, therefore, argued that the petitioner is not entitled to be granted benefit of bail.

5. This Court has heard rival submissions made by learned counsel for the parties.

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6. The petitioner along with the co-accused is alleged to have been found in conscious possession of commercial quantity of contraband. Rigors of Section 37 of the NDPS Act are therefore applicable in this case. As per his custody certificate, he is in custody since 18.04.2024 i.e. for a period of 01 year and 08 months. Co-accused Parveen Kumar and Hardeep Singh, whose case is on similar footings have been extended benefit of bail. Ever since the withdrawal of his previous petition, a period of more than 09 months has expired. The trial is obviously likely to take time as no prosecution witness has been examined so far. 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

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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. Therefore, keeping in view the aforementioned facts and circumstances, 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 and the petitioner has made out a case for release on bail. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal as well as 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.

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

(MANISHA BATRA)
JUDGE

19.12.2025

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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