

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

249

CRM-M-61014-2025

Date of decision: 27th November, 2025

Karan Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

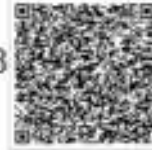
Present: Mr. Sandeep Wadhawan, Advocate for the petitioner.

Mr. Vivek Sharma, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been 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. 78 dated 29.09.2023 registered under Sections 20 and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short '*NDPS Act*') at Police Station Dhakoli, District SAS Nagar, Mohali.

2. As per the allegations, on 29.09.2023, a secret information was received to the effect that the present petitioner, along with his brother Ajmer @ Banty and Karan Kumar, was indulged in the business of sale of *ganja* and on that particular point of time also they were present at the shop of one Mukesh with huge quantity of *ganja* in their possession. Believing the secret information to be true, a raiding party was formed which reached at the informed place and found the petitioner and co-accused Krishan to be



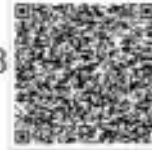
present there. On conducting search, four plastic bags were found in their possession, on opening which 25 kgs of *ganja* was found kept in each of the bag. The same were taken into possession. On interrogation, they suffered disclosure statements admitting their involvement in the crime and also took the name of the co-accused Ajmer. Investigation now stands completed. The petitioner along with the co-accused is facing trial for commission of aforementioned offences.

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. No recovery was effected from his conscious possession. He had no connection whatsoever with the above-named Mukesh, who had not even been nominated. He is in custody since 29.09.2023. He has clean antecedents. Trial will take considerable time to conclude as only six out of twelve prosecution witnesses have been examined so far. His further incarceration would not serve any useful purpose. It is, therefore, urged that the petition deserves to be allowed.

4. Custody certificate as well as status report has been filed by respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be released on bail.

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

6. The petitioner along with the co-accused is alleged to be found in possession of 100 kgs of *ganja* as on 29.09.2023. He is in custody since then. Trial is likely to take time. 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 (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 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.

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

[MANISHA BATRA]
JUDGE

27th November, 2025

Parveen Sharma

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