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

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**CRM-M No.64262 of 2025
Date of Decision: 27.11.2025**

Kulwinder Kumar alias Bona

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amrit Paul Nahar, Advocate,
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The petitioner is seeking indulgence of this Court by filing the present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") for grant of regular bail in case arising out of FIR No.24 dated 21.02.2023 registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station Bullowal, District Hoshiarpur, on the allegations that on 21.02.2023, the petitioner was apprehended on the basis of a secret information and 170 grams of intoxicating substance Alprazolam, drug money of Rs.2,12,240/- and six mobile phones were recovered from him. He was formally arrested. The recovered articles/contraband were taken into custody by the police. Investigation now stands completed and

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the petitioner is facing trial for commission of the aforementioned offences.

2. The previous petition bearing CRM-M No.40028 of 2024 as filed by him was dismissed on 01.10.2024.

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. He is in custody since 21.02.2023. However, the trial is likely to take time since only 5 witnesses have been examined so far. No useful purpose would be served by keeping him in custody any more. His involvement in other cases cannot be considered to be a reason for denying benefit of bail to him. It is, therefore, argued that the petition deserves to be allowed.

4. Status report has been filed. Learned Assistant Advocate General, Punjab has argued that there is no new or substantive change in the circumstances. The allegations against the petitioner are serious in nature. It is, therefore, argued that the petition does not deserve to be allowed.

5. This Court has considered the rival submissions.

6. In the instant case, commercial quantity of contraband, drug money of Rs.2,12,240/- and six mobile phones were recovered from the petitioner. He has remained in custody for a period of more than two years and seven months. This factor, in the opinion of this Court, is a ground to move for bail afresh. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time, and the bail application can be considered on its own merits even if it is filed repeatedly. 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

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circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the rights of the accused with the requirements of the criminal justice system. 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. Only 05 out of 12 witnesses have been examined by the prosecution till now. Obviously, the petitioner is not required for further investigation. It is true that grant of bail on account of delay in trial and long period of incarceration is to be considered in light of Section 37 of the NDPS Act. Reliance in this regard can be placed on the observations made by the Hon'ble Apex Court in ***Mohd. Muslim @ Hussain v. State (NCT of Delhi), 2023 SCC OnLine SC 352***, wherein it was held that grant of bail on account of undue delay in trial cannot be said to be fettered under Section 37 of the NDPS Act, given the imperative of Section 436A of Cr.P.C. which is applicable to offences under the Act. It was also observed that the jails are overcrowded and their living conditions are, more often than not, appalling. The danger of unjustified imprisonment is that inmates are more likely to be hardened rather than reformed. Reliance can also be placed upon ***Manmandal and Another v. State of West Bengal, Special Leave Petition (Criminal) No. 8656 of 2023 decided on 14.09.2023*** and ***Rabi Prakash v. State of Odisha, 2023 SCC OnLine SC 110***, wherein bail was granted to the accused, who had been incarcerated for a period of almost two to three years and the trial was likely to take considerable time. By observing that 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 constitutional principle must override the statutory embargo contained under Section 37 of the NDPS Act.

7. In view of the above discussion, this Court is of the opinion that a case is made out for grant of bail to the petitioner at this stage. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing personal as well as surety bonds to the satisfaction of the learned trial Court/CJM/Duty Magistrate concerned, and subject to the condition that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case. He shall appear before the learned trial Court on each and every date of hearing except when his presence has been exempted by the trial Court. He shall surrender his passport, if any, furnish details of his cell phone and Aadhaar card, and shall not change his mobile number(s) during the pendency of the trial.

8. It is clarified that the observations made above shall not be construed as an expression of opinion of this Court on the merits of the case and shall not influence the outcome of the trial in any manner.

27.11.2025
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No