



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

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CRM-M-65268-2024

Date of decision: March 26th, 2025

Ishan Gupta

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Randeep Singh Waraich, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This is the third petition filed by the petitioner seeking the concession of regular bail in FIR No.15 dated 23.01.2023 registered under Sections 22, 29 of the NDPS Act, 1985, at Police Station Gobindgarh Mandi, Fatehgarh Sahib.

2. Learned counsel for the petitioner contends that after the petitioner was arrested on 24.01.2023, following a disclosure statement allegedly made by co-accused Sunny from whom a recovery of 19590 intoxicant tablets was effected, the trial had not yet concluded; challan was presented on 18.07.2023 and charges were framed on 30.09.2023, however, the trial Court had been adjourning the case repeatedly on account of the non-appearance of the prosecution witnesses, who in the present case are all police officials. It has been submitted that since as many as 47 prosecution witnesses have been cited, the petitioner deserves to be extended the concession of bail, more so when no recovery of any contraband was made from him in the present case and in the above given

facts and circumstances, the possibility of the trial concluding in the near future does not arise.

3. *Per contra*, learned State counsel has not disputed the custody period of the petitioner nor has he disputed, on instructions, that none of the 47 prosecution witnesses have been examined so far. However, it has been contended by the learned State counsel that it is not because of the absence of the prosecution witnesses that the trial has been prolonged. It is on account of the fact that on some of the dates, the petitioner was not produced by the jail authorities while on some other dates of hearing, the case could not be taken up due to some administrative exigencies of the trial Court.

4. On a pointed query put to the learned State counsel as to whether any contraband was recovered from the petitioner following his arrest on 24.01.2023, he, on instructions, has replied in the negative. On further instructions, it has also not been controverted that the petitioner's name surfaced only in the disclosure statement of co-accused Sunny.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. The petitioner has approached this Court seeking bail on the ground that he has been in custody 24.01.2023, and despite the passage of considerable time, the trial has not progressed in any meaningful manner. It is not in dispute that none of the 47 prosecution witnesses have been examined so far after the charges were framed on 30.09.2023. The learned State counsel, while not disputing the custody period of the petitioner, has sought to attribute the delay to factors such as non-production of the petitioner by the jail authorities on certain

dates and administrative exigencies that led to the case not being taken up.

7. The right to a speedy trial is not merely a statutory privilege but a fundamental right enshrined in Article 21 of the Constitution of India. Speedy trial is an essential component of fair procedure and any unwarranted delay is a valid ground for bail. Pre-trial detention is justified only to secure the presence of an accused at trial and prevent interference with the investigation. However, when the trial remains stagnant, further incarceration of an accused serves no legitimate purpose and amounts to punitive detention, which is impermissible in law. Bail is the rule, and jail is the exception. When a trial is unduly delayed, granting bail is not just an option but a right.

8. No one should lose their liberty due to procedural delays. If the State cannot ensure a timely trial, the accused should not have to suffer for it. The delay in the present case highlights the need to protect the constitutional right to a fair and speedy trial. Therefore, this Court finds no justification for further incarceration of the petitioner.

9. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

March 26th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes