



CRM-M-64307-2025

**(244) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision : 28.11.2025

BABLU

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Supinder Singh Sohi, Advocate for the petitioner

Ms. Sakshi Bakshi, AAG, Punjab

MANISHA BATRA, J.

1. The instant petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case arising out of FIR No.97, dated 28.10.2023 under Sections 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short "NDPS") registered at Police Station Ghagga, District Patiala on the allegations that on 28.10.2023, he alongwith the co-accused was apprehended and was found in conscious possession of 1520 loose intoxicating tablets of Tramadol Hydrochloride, though he had thrown those tablets on the ground on seeing the Police party,. He alongwith the co-accused was formally arrested and is presently facing trial for commission of aforementioned offence. The previous petition filed by the petitioner was dismissed by this Court on 16.05.2025, taking into consideration the gravity of the

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allegations, and by observing that there were no chances of any delay in conclusion of the trial.

2. It is argued by learned counsel for the petitioner that after dismissal of his previous petition, a period of more than six and half months has lapsed, however, the trial has not proceeded further at all and no prosecution witness has been examined. It is argued that the prolonged period of his incarceration is a sufficient reason for seeking benefit of bail by him. It is, therefore, argued that the petition deserves to be allowed.

3. Per contra, learned State Counsel has argued that the previous petition had been dismissed by passing a detailed order. There is no fresh ground, so as to merit interference of this Court, while considering the prayer for grant of bail. It is accordingly stressed that the petition does not deserve to be allowed.

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

5. The petitioner has remained in custody for a period of more than 02 years and about one month. The period of incarceration is also a relevant factor to be considered while deciding whether bail should be granted to an accused charged with an offence under the provisions of NDPS Act apart from the severity of the punishment. So far as the maintainability of the petition is concerned, the well settled proposition of law is that an accused has a right to make successive applications for grant of bail and it is the duty of the Court, while entertaining a

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subsequent bail application, to consider the reasons and grounds on which the earlier bail petition was rejected. The fresh grounds which persuade the Court to take a view different from the one taken in the earlier application are required to be recorded.

6. In the instant case, the recovery of commercial quantity of intoxicating tablets was effected from the petitioner. However, he is in custody for a period of over two years as already observed. There are no chances of the conclusion of the trial in the near future. 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 bail petition can be considered on its own merit. 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 circumstances. The grant of bail on account of delay in trial and long period of incarceration is to be considered in the 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 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



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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 Rabdi 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 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 furnishing personal as well as surety bonds to the satisfaction of the learned trial Court, 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.

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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.

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

(MANISHA BATRA)
JUDGE

28.11.2025
Amit Sharma

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