

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:163149



243

CRM-M-64852-2025 (O&M)
Date of decision:21.11.2025

Nanak Singh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. D.S. Virk, Advocate for the petitioner.

Ms. Himani Arora, DAG, Haryana.

...

Manisha Batra, J. (Oral).

1. The instant one is the second petition that has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to him in case bearing FIR No.0377 dated 02.06.2023, registered under Sections 15, 25 and 27(A) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station Assandh, District Karnal. The previous petition was dismissed by this Court on 02.04.2025.

2. The petitioner has been booked in the aforementioned FIR and is facing trial therein on the allegations that he along with co-accused Harwinder Singh was found to be in possession of 67.3 kgs. of doda post, while coming in a container bearing registration number HR-38Y-0962. He was apprehended on 02.06.2023. Since then, he is in custody.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. Mandatory provisions of the NDPS Act were not complied with properly. Even otherwise, investigation has been completed long back and challan has been presented in Court. However, trial is substantially delayed as despite the fact that challan was presented on 21.01.2025 and out of total 15 prosecution witnesses, only 05 witnesses have been examined so far, there is no likelihood of the trial being completed in near future. The petitioner is involved in one more case. He is in custody since 02.06.2023 i.e. for the last about 02 years and 05 months. In view of substantial delay in trial, the petitioner is entitled to get benefit of bail as no useful purpose would be served by keeping the petitioner in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

4. Notice of motion.

5. Learned State counsel has advance notice of the petition and has argued that keeping in view the gravity of the allegations levelled against the petitioner, he is not entitled to get benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

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

6. As per the allegations, the petitioner along with the above named co-accused was found to be in possession of 67.3 kgs. of doda post on 02.06.2023. The petitioner is in custody since the date of registration of the FIR. On going through the record, it is apparent that the trial is substantially delayed as only 05 prosecution witnesses have been examined so far out of total 15 witnesses, despite the fact that challan was presented

way back 21.01.2025. The petitioner has been in long incarceration of about 02 years and 05 months. The trial is obviously delayed and there is no likelihood of the same to conclude in near future. 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. In the present case, apparently and evidently, the trial is substantially delayed. 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.

21.11.2025

harjeet

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No