



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

341

CRM-M-66725-2025
Date of decision: 08.12.2025

Abhishek Shahi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. GS Kaura, Advocate and
Mr. Rangat Joshi, Advocate and
Mr. Amanpreet Singh Dhiman, Advocate and
Ms. Shubh Karman Kaur Kaura, Advocate and
Ms. Kamaldeep Kaur, Advocate for the petitioner
Mr. Durgesh Garg, AAG, Punjab

MANISHA BATRA, J (ORAL):-

The instant one is the second petition that has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS'), for grant of regular bail to him in case bearing FIR No.192 dated 31.12.2023 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS' Act) at Police Station Doraha, District Ludhiana. The previous petition CRM-M-64460-2024 was dismissed vide order dated 08.01.2025 by this Court.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 31.12.2023, the petitioner and co-accused Akashdeep Singh and Sagar Thakur, while coming on a motorcycle bearing registration number PB-10-FJ-5421, were apprehended by a police party and recovery of 260 grams of heroin was effected from a polythene bag which was kept underneath the



seat of the said motorcycle. The said motorcycle as well as the recovered contraband were taken into possession. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented on 27.03.2024 in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offence. Co-accused Deepak Kumar was granted concession of regular bail on 18.06.2021 but he did not appear before the learned trial Court and ultimately, he was declared a proclaimed offender. He is stated to be still absconding.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. The petitioner was not aware of the contraband being kept underneath the said motorcycle. He is not involved in any other case under the NDPS Act. 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 27.03.2024, only 02 prosecution witnesses have been examined so far out of total 12 witnesses and 01 witness has been given up. There is no likelihood of the trial being completed in near future. The petitioner is in custody since 31.12.2023. 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 him in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

4. Custody Certificate has been filed by the respondent-State. Learned Assistant Advocate General, Punjab has argued that keeping in view the gravity of the allegations levelled against the petitioner, he is not entitled to get benefit of bail. Since commercial quantity of the contraband has been recovered from the petitioner and co-accused, the rigors of Section 37 of the



NDPS Act would be attracted. Hence, it is urged that the petition is liable to be dismissed.

5. This Court has heard the submissions made by both the sides.

6. As per the allegations, the petitioner along with above named coaccused was found to be in possession of 260 grams of heroin on 31.12.2023. The petitioner is in custody since the date of registration of the FIR. He is not shown to be involved in any other case of similar nature. On going through the record, it is apparent that the trial is substantially delayed as only 02 prosecution witnesses have been examined so far out of total 12 witnesses, despite the fact that challan was presented way back 27.03.2024. The petitioner has been in long incarceration. 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.

[MANISHA BATRA]
JUDGE

08th December, 2025
Amit Sharma

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