

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:178408



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CRM-M-71376-2025 (O&M)
Date of decision:23.12.2025

Arjodh Singh @ Jodha

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Kamal Gupta, Advocate,
Mr. Sanish Girdhar, Advocate and
Ms. Sejal, Advocate for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

...

Manisha Batra, J. (Oral).

CRM-51349-2025:

Application is allowed as prayed for.

Main case:

1. The instant one is the third petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 01 dated 01.01.2024 registered under Sections 18 and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') at Police Station Maqboolpura, District Amritsar. His previous petitions had been dismissed as withdrawn.

2. As per the allegations, on 01.01.2024, the petitioner and accused Pishora Singh @ Pashoora Singh were apprehended on the basis of a secret information and 05 kgs of opium was recovered from their conscious possession which was taken into possession by the police. The accused were formally arrested. Investigation now stands completed and the petitioner along with the co-accused is facing trial for commission of the aforementioned offences.

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. The provisions of NDPS Act have not been properly followed at the time of alleged recovery. He has clean antecedents. The petitioner has undergone prolonged incarceration ever since the withdrawal of his previous petitions. Trial would take considerable time to conclude as only 01 out of 18 prosecution witnesses, has been examined so far. 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 filed custody certificate of the petitioner. It has been argued by him that there are serious and specific allegations against the petitioner from whom recovery of commercial quantity of contraband has been effected. The rigors of Section 37 are attracted in this case. There are chances of his absconding or committing similar offences, if extended benefit of bail. Therefore, it is stressed that the petition does not deserve to be allowed.

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

7. The petitioner along with the co-accused was found to be in conscious possession of commercial quantity of the contraband. He is in custody for a period of more than 01 year, 11 months and 15 days. Trial will obviously take time since only 01 prosecution witness out of 18, has been examined so far. 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. 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.

8. 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.

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

23.12.2025

harjeet

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No

(MANISHA BATRA)
JUDGE