

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:178470



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CRM-M-71558-2025 (O&M)

Date of decision:23.12.2025

Yadbir Singh @ Yadu

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amardeep Singh, Advocate,
for the petitioner (through V.C.).

Mr. Durgesh Garg, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in case bearing FIR No.10 dated 09.02.2024, registered under Section 25 of the Arms Act, 1959 (Offences under Sections 21 and 21-C of the NDPS Act added and offences under Sections 25(6), (7) and (8) of the Arms Act and Sections 10, 11 and 12 of the Aircraft Act, 1934 deleted later on) at Police Station Sarai Amant Khan, District Tarn Taran.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 09.02.2024, a secret information was received to the effect that the petitioner and co-accused Baljinder Singh @ Billa were indulged in smuggling of illegal arms with Pakistani smugglers and on that very day, they were coming to village Naushehra Dhala on a motorcycle for

supplying illegal weapons. Believing the information to be reliable, a barricade was laid at the informed place and the petitioner, while coming on a motorcycle with the said co-accused, was apprehended by the police party. On search, two illegal pistols made in Austria along with magazines were recovered from the co-accused. On search of the petitioner, recovery of one pistol of .30 bore was effected from him. They suffered disclosure statements admitting that the recovered arms were procured by them from Pakistani smugglers. They also disclosed that they had got smuggled heroin through drone from Pakistani smuggler Chacha Pehalwan and got recovered 520 grams of heroin from a place demarcated by them. After completion of necessary investigation and usual formalities, challan under Section 193 of BNSS was presented before the Court on 05.08.2024 and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case and is in custody since 09.02.2025. A false recovery has been planted upon him. No prosecution witness has been examined so far. The trial is substantially delayed. Similarly situated co-accused, namely, Baljinder Singh @ Billa has been extended benefit of bail on account of his prolonged incarceration. On parity, he too, deserves to be extended the same benefit. It is, therefore, argued that the petition deserves to be allowed.

4. Notice of motion.

5. Learned State counsel has advance notice of the petition and is ready to argue the matter. While placing on record custody certificate of the

petitioner, it is submitted by him that there are grave allegations against the petitioner. There are chances of his absconding, if extended benefit of bail. It is, therefore, argued that the petition is liable to be dismissed.

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

6. As per the allegations, the petitioner along with the co-accused was found to be in possession of illicit arms on 09.02.2024. Subsequently, recovery of commercial quantity of contraband was effected at the instance of the co-accused. No prosecution witness out of 18 witnesses has been examined so far. The trial is obviously delayed, thereby prolonging his custody. There are no chances of conclusion of the trial in near future. Though the petitioner is shown to be involved in one more case under the NDPS Act but is on bail in that case. 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, the ratio of law as laid down in the aforecited authorities and on the ground of parity, 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.

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

23.12.2025

harjeet

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

(MANISHA BATRA)
JUDGE