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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-47743-2025

Date of decision: 14th January, 2026

Mukesh Devi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Pradeep Duhan, Advocate for the petitioner.

Ms. Himani Arora, Deputy Advocate General, Haryana.

MANISHA BATRA, J (ORAL):-

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. 256 dated 11.06.2023 registered under Sections 20(c) and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') at Police Station Sadar Tauru, District Nuh, on the allegations that on 11.06.2023, on the basis of a secret information, accused Dharmender, Sarvan Kumar, Arvind Kumar and Vikas had come to the house of one Dashrath resident of village Jhamuvas, to hand over some narcotic substance to the mother of Dashrath and they could be apprehended along with the contraband, if raid was conducted. Believing the secret information to be true, a raiding party was formed which reached at

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the house of accused Dashrath and apprehended the above named accused. The petitioner was also found present there. On conducting search, a sum of Rs. 1 lakh, three plastic bags along with one electronic scale were recovered from the spot. On opening the plastic bags, *ganja* was recovered from the same and these bags were containing 56.924 kgs of *ganja* was kept therein. On conducting further search, recovery of other plastic bag was effected from the room of the petitioner and total recovery weighed to be of 139.28 kgs. of *ganja* was effected. Recovered contraband was taken into possession. The petitioner and co-accused were arrested. Investigation now stands completed and the petitioner along with the co-accused is facing trial for commission of aforementioned offences. Previous petitions as filed by the petitioner had been dismissed as withdrawn.

2. It is argued by learned counsel for the petitioner that she has been falsely implicated in this case. A false recovery has been planted upon her. She was not named in the FIR. She is an old aged lady. She has been implicated in this case due to involvement of her son in the subject offences. Trial is likely to take time to conclude as only 03 out of 30 prosecution witnesses have been examined so far. Co-accused have been extended benefit of bail. On parity, she too deserves to be extended the same benefit. Her continued detention would not serve any useful purpose. She has clean antecedents. It is, thus, argued that the petition deserves to be allowed.

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3. *Per contra*, learned State counsel has argued that the instant petition is not maintainable being successive one. Rigors of Section 37 of NDPS Act are attracted since there is recovery of commercial of contraband. There are chances of petitioner's absconding or committing similar offences, if extended benefit of bail. It is, thus, argued that she does not deserve to be released on bail.

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

5. The petitioner has been in custody for a period of one year and eleven months. There are no chances of conclusion of trial in near future as only 03 out of 30 prosecution witnesses have been examined so far. Most of the co-accused have been extended benefit of bail. On parity, she too deserves to be released on bail. Even otherwise prolonged incarceration and inordinate delay in conclusion of trial generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, an accused becomes entitled to get benefit of bail. Ever since the withdrawal of his previous petition, a period of more than 01 year and 11 months has expired. 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)

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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, the ratio of law as laid down in the aforecited authorities as well as on parity, this Court is of the considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore and the petitioner has made out a case for release on bail. Accordingly, the present

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petition is allowed. The petitioner is ordered to be released on regular bail, subject to her furnishing personal as well as 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.

[MANISHA BATRA]
JUDGE

14th January, 2026
Parveen Sharma

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