



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

(225)

CRM-M-50883-2025(O&M)
DATE OF DECISION: 27.01.2026

Rahul Bhargav

.....Petitioner

VERSUS

State of Punjab

.....Respondent

CORAM HON'BLE MR. JUSTICE SUBHAS MEHLA

Present Mr.Ranjodh Singh Sidhu, Advocate, for the petitioner.
Mr. Sandeep Kumar, DAG, Punjab.

SUBHAS MEHLA, J (ORAL)

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of concession of regular bail, to the petitioner in case FIR No.07 dated 31.01.2021, under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substance Act, 1985, registered at P.S. Bhikhiwind, District Tarn Taran.

2. Briefly stated, the recovery of 79000 intoxicant tablets of Tramadol from the car in which petitioner along with two other co-accused; petitioner was sitting on the conductor seat of the said car; 3000 tablets were recovered from right pocket of his pant has constituted the bedrock for registration of the present FIR.

3. The learned counsel for the petitioner has contended that petitioner is in custody for the last almost five years i.e from 31.01.2021; co-accused namely Sandeep Kumar has already been granted concession of regular bail by a Co-ordinate Bench of this Court and case of the petitioner is on the same footings. He further contends that charges were framed on 15.12.2021 i.e almost four years ago and out of thirteen prosecution



witnesses, only five witnesses have been examined. He further contends that as trial will take sufficient time to conclude and speedy trial is the right of the accused and it invites Article 21 of the Constitution of India and prayed for acceptance of the present petition.

4. On the other hand, Mr. Sandeep Kumar, DAG, Punjab, appeared and filed custody certificate on behalf of petitioner, same is taken on record. Learned counsel opposed the bail petition by submitting that huge quantity of contraband has been recovered from the possession of the present petitioner and co-accused, however, regarding custody and framing of charge in this case and examination of witnesses is not disputed by learned State counsel as contended by learned counsel for the petitioner.

5. Learned State counsel further opposed the grant of regular bail to the petitioner, on the ground that, since the recovered contraband falls within the category of “commercial quantity”, therefore, in view of the statutory bar engrafted in Section 37 of the N.D.P.S. Act, the petitioner does not deserve the concession of bail.

6. Heard.

7. Although, it is not under dispute that the recovered contraband falls within the ambit of “**commercial quantity**”, thus attracting the rigor of Section 37 of the N.D.P.S. Act, however, it is also not under dispute that sufficient period of incarceration dilutes the stringent conditions of Section 37 of the N.D.P.S. Act. Gainful reference in this regard can be made to “**Rabi Prakash Versus The State of Odisha**”, **Special Leave to Appeal (Criminal) No.4169 of 2023**, wherein, the Hon’ble Supreme Court has discussed the effect of Section 37 of the NDPS Act in such like cases of long



No.4 is reproduced as under:-

“4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent – State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. 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.”

8. Although the NDPS Act prescribes stringent conditions for the grant of bail, every statute is required to operate in conformity with the fundamental principles enshrined in the Constitution of India. Notwithstanding the rigours of N.D.P.S. Act, the fundamental right guaranteed under Article 21 cannot be rendered illusory and must be duly balanced. The Supreme Court in *V. Senthil Balaji v. The Deputy Director, 2024 INSC 739*, held that higher thresholds for granting bail in stringent penal statutes like the PMLA, UAPA, and NDPS Act cannot be a tool to keep an accused incarcerated without trial:

25.such statutes contain provisions laying down higher threshold for the grant of bail. The expeditious disposal of the trial is also warranted considering the higher threshold set for the grant of bail. Hence, the requirement of expeditious disposal of cases must be read into these statutes....

26. There are a series of decisions of this Court starting from the decision in the case of K.A. Najeeb2, which hold that such stringent provisions for the grant of bail do not take away the power of Constitutional Courts to grant bail on the grounds of violation of Part III of the

Constitution of India. We have already referred to paragraph 17 of the said decision, which lays down that the rigours of such provisions will melt down where there is no likelihood of trial being completed in a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. One of the reasons is that if, because of such provisions, incarceration of an undertrial accused is continued for an unreasonably long time, the provisions may be exposed to the vice of being violative of Article 21 of the Constitution of India.

9. Hence, balancing the petitioner’s fundamental right to life and personal liberty with the stringent provisions of N.D.P.S. Act, this Court deems it appropriate to grant the concession of regular bail to the petitioner. Accordingly, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of his bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/Trial Court/Duty Magistrate with such conditions as it may deem fit to secure his presence during trial.

10. Pending application(s), if any, also stand **disposed** of accordingly.

27.01.2026

mamta

Whether speaking/reasoned
Whether reportable

(SUBHAS MEHLA)

JUDGE

Yes/No
Yes/No