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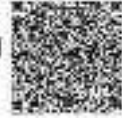
CRM-M-59402-2025 (O&M)**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****(221+107)****CRM-M-59402-2025 (O&M)****Date of decision : 21.01.2026****NAGESH****... Petitioner****Versus****STATE OF PUNJAB****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA****Present: Mr. Deepak Aggarwal, Advocate for the petitioner****Ms. Sakshi Bakshi, AAG, Punjab************MANISHA BATRA, J. (ORAL)****CRM-51133-2025**

1. Application for placing on record Annexure P-4 & P-5 has been filed.

2. Application is allowed subject to just exceptions and the documents annexed with the application are ordered to be placed on record as Annexure P-4 & P-5, respectively.

CRM-M-59402-2025

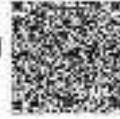
1. The present petition is the second petition filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking grant of regular bail in case arising out of FIR No.67 dated 23.08.2023 registered under Section 15(C) and 25 of the Narcotics Drugs and Psychotropic Substances Act (for short "NDPS") at Police Station Sadar Budhlada, District Mansa.

**CRM-M-59402-2025 (O&M)**

2. As per the allegations, on 23.08.2023, the petitioner alongwith the co-accused Vinod Bhatee and Dara Singh was found in conscious possession of 29 quintals of poppy husk being carried in a canter belonging to co-accused Sunil Parmar. He was formally arrested. Investigation now stands concluded. His previous petition was dismissed as withdrawn by this Court on 02.09.2024.

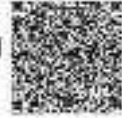
3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case and a false recovery has been planted upon him. The mandatory provisions of Section 50 of the NDPS Act had not been followed by the Investigating Agency. No independent witness has been joined. He has been in custody since 23.08.2023. The trial is likely to take considerable time. He has clean antecedents. His continued detention would not serve any useful purpose. The co-accused Dara Singh and Vinod Bhatee have already been extended benefit of bail. On parity, he too deserves the same benefit. It is, therefore, urged that he deserves to be released on bail.

4. Custody certificate has been filed by learned State counsel. It is argued by learned State counsel that there are serious allegations against the petitioner. Commercial quantity of contraband was recovered from the conscious possession of himself and the co-accused. Six prosecution witnesses have been examined. Trial may be expedited further. It is, therefore, urged that the petitioner does not deserve to be extended benefit of bail.

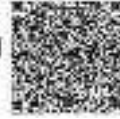
**CRM-M-59402-2025 (O&M)**

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

6. As per the allegations, the petitioner along with the co-accused was allegedly found to be in conscious possession of 29 quintals of poppy husk. The allegations prima facie makes out a case for commission of subject offences. However, he has been in custody from the date of registration of FIR. Trial is obviously not going to be concluded in near future as only 06 out of 15 prosecution witnesses have been examined so far. The petitioner is in custody for a period of more than 02 years and 04 months. This factor, in the opinion of this Court, is a ground to move for bail afresh. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time, and the bail application can be considered on its own merits even if it is filed repeatedly. It has also been held that every day spent in custody can provide a new cause of action for filing a bail application under certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the rights of the accused with the requirements of the criminal justice system. 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

**CRM-M-59402-2025 (O&M)**

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 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. Accordingly, the present petition is allowed. The petitioner is ordered to be released on

**CRM-M-59402-2025 (O&M)**

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.

(MANISHA BATRA)
JUDGE

21.01.2026
Amit Sharma

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