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

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CRM-M-26815-2025 (O&M)

Date of decision: 12.08.2025

Gopal**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Satnam Singh Gill, Advocate and
Ms. Manjot Kaur, Advocate
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the fifth petition that has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No. 24 dated 01.02.2022, registered under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) (Section 27 of the NDPS Act and Sections 279 and 427 of IPC were added later on) at Police Station STF, Phase-4, SAS Nagar. The previous petitions have been dismissed as withdrawn.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 01.02.2022, on the basis of secret information, the petitioner, while coming in a car bearing registration number HR-01-AV-6517, was apprehended by a police party and recovery of 64400 intoxicating tablets of Tramadol was effected from him. Since he could not produce any valid license or permit to keep in his possession the recovered drugs, he was formally arrested at the spot. After completion of necessary

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investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was presented on 17.06.2022 in the Court and presently, the petitioner is facing trial for commission of aforementioned offences.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. Mandatory provisions of the NDPS Act were not complied with. Even otherwise, investigation stands completed far back and *challan* was presented on 17.06.2022. However, out of total 18 prosecution witnesses, only 10 witnesses have been examined so far and 06 witnesses are still to be examined, as 02 prosecution witnesses have been given up, which means that conclusion of trial is likely to take time. The petitioner is in custody since 01.02.2022 barring small period of his interim bail. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be released on regular bail.

4. Status report has been filed by the respondent-State. Learned State counsel has submitted that keeping in view the gravity of the allegations levelled against the petitioner, he is not entitled to get benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

6. As per the allegations, the petitioner was apprehended by the police party and recovery of 64400 intoxicating tablets was effected from him. The quantity of the alleged contraband obviously falls under commercial quantity. However, a perusal of the record reveals that despite of the fact that *challan* was presented way back on 17.06.2022, its conclusion would still take

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a considerable time as 06 prosecution witnesses are yet to be examined. It goes to show that the trial is substantially delayed and there is no likelihood of the same to conclude in near future. The petitioner is in long incarceration of about 03 years and 06 months. 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

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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 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 bonds and two sureties 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. This order shall further be subject to a condition that the petitioner will mark his presence before the SHO of the Police Station concerned on first Monday of every month at 11:00 AM.

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.

12.05.2025

Wasem Ansari(MANISHA BATRA)
JUDGE*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*