

2025:PHHC:117034



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

CRM-M-2281-2025 (O&M)

Reserved on : 28.08.2025

Pronounced on : 02.09.2025

Dinesh @ Kala**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

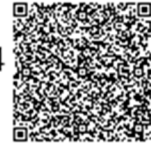
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J.

1. The instant one is the second petition that has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case bearing FIR No. 214 dated 05.08.2022, registered under Section 20-C of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Garhi, District Jind. The previous petition was dismissed as withdrawn on 16.10.2024.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 05.08.2022, on the basis of secret information, the petitioner, while coming on a motorcycle bearing registration number HR-32E-0617, was apprehended by a police party and recovery of 01 kg. 50 grams of Charas was effected from a polythene bag which he was carrying. He was formally arrested at the spot. Upon interrogation, he disclosed that he had purchased the recovered contraband from co-accused Raj Kumar @ Kala and Randhir @ Dhira. They were also nominated in this case. After

2025:PHHC:117034



completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was presented 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. In fact, on 04.08.2022 at 11:00 AM, ASI Avtar Singh and Constable Arun Kumar were consuming liquor at Bus Stand Dhanauri, where a quarrel had taken place between them and the petitioner and it was on that account that the petitioner had been falsely implicated in this case by concocting a false story. The brother of the petitioner had moved a complaint against the said police official before the State Police Complaint Authority, Haryana, wherein serious doubts had cropped up regarding date of arrest of the petitioner and vide order dated 06.03.2023, Director General of Police, Haryana was directed to look into the matter. However, no action was taken. Even otherwise, investigation has been completed long back and *challan* has been presented in Court. However, trial is substantially delayed as despite the fact that *challan* was presented on 16.01.2023, only 08 prosecution witnesses have been examined so far out of total 20 prosecution witnesses and there is no likelihood of the trial being completed in near future. The petitioner is in custody since 05.08.2022 i.e. for the last more than 03 years. He is not involved in any other case. In view of substantial delay in trial, the petitioner is entitled to get benefit of bail. No useful purpose would be served by keeping the petitioner in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. Learned Assistant Advocate General, Punjab has argued that keeping in view the

2025:PHHC:117034

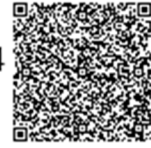


gravity of the allegations levelled against the petitioner, he is not entitled to get benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

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 on 05.08.2022 and recovery of 01 kg. 50 grams of Charas was effected from him. On going through the record, it is apparent that the trial is substantially delayed as only 08 prosecution witnesses have been examined so far out of total 20 witnesses, despite the fact that *challan* was presented way back on 16.01.2023. The petitioner has been in long incarceration of more than 03 years. The trial is obviously delayed and there is no likelihood of the same to conclude in near future. 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

2025:PHHC:117034



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 and also the ratio of law as laid down in the aforesaid 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/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.

8. 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.

02.09.2025

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