



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

(242)

CRM-M-40844-2026 (O&M)

Date of decision : 18.08.2026

SUKHVEER SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ajay Pal S. Gill, Advocate for the petitioner

Ms. Sakshi Bakshi, AAG, Punjab

MANISHA BATRA, J. (ORAL)

1. The instant one is the second petition preferred by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”) for grant of regular bail in case arising out of FIR No.82 dated 23.07.2024 registered under Sections 21, 29 of Narcotic Drugs and Psychotropic Substances Act (for short “NDPS Act”) at Police Station Khuian Sarwar, District Fazilka. His previous petition bearing CRM-M-15147-2026 was dismissed by this Court on 17.04.2026.

2. The aforementioned FIR was registered on the basis of allegations that on 23.07.2024, a secret information was received to the effect that the petitioner and accused Dimple Kumar were involved in the business of sale of heroin and on that particular day, they were coming from Abohar side in a swift car. It was further informed that they could be apprehended with contraband. Believing the secret information to be true, a barricade was laid at the informed place. The petitioner and accused Dimple Kumar were



apprehended. 525 grams of heroin was recovered from their conscious possession which was kept in the car occupied by them and which was taken into possession. They were formally arrested. On interrogation, the co-accused Dimple Kumar suffered disclosure statement on the basis of which Gurbalraj Singh and Arshdeep were nominated as additional accused and were arrested. Investigation now stands concluded.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. A false recovery has been planted upon him. He is in custody since 23.07.2024. The chances of conclusion of trial in near future are bleak as only 02 out of 12 prosecution witnesses have been examined so far. His further incarceration is not going to serve any useful purpose. Each day spent by him in custody has furnished a reason for extending benefit of bail to him. His prolonged incarceration militates against his fundamental right guaranteed under Article 21 of the Constitution of India. It is, therefore, argued that the petition deserves to be allowed.

4. Notice of motion.

5. Learned State counsel has advance notice of the petition and while filing custody certificate has argued that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be extended benefit of bail.

6. This Court has heard the rival submissions made by learned counsel for the parties at considerable length.



7. The petitioner was apprehended by the police party and commercial quantity of contraband had been recovered from his conscious possession. The allegations against him *prima facie* make out a case for commission of the subject offences by the petitioner. So far as the question of maintainability of this petition being successive one is concerned, it may be mentioned that, an accused has a right to move successive bail application for grant of bail and it is the duty of the Court, while entertaining such a subsequent bail application, to consider that any fresh ground which persuade it to take a view different from the one taken in the earlier application is made out or not. It is also required to be noted that every day spent by an accused in custody provides a new cause of action for filing a bail application under certain circumstances. He cannot be kept in custody for indefinite period and the bail application can be considered even if it is filed repeatedly. The denial of bail comes with a condition that the prosecution must press for early completion of the trial. The petitioner has clean antecedents. He is in custody since 23.07.2024. The trial will take considerable time to conclude. It is well settled proposition of law that grant of bail on account of delay in trial and long period of incarceration is to be considered in the light of Section 37 of the NDPS Act. Reliance in this regard can be placed upon the observations made by *Hon'ble Apex Court in Mohd. Muslim @ Hussain v. State (NCT of Delhi), 2023 SCC OnLine SC 352*, wherein it was held that grant of bail on account of undue delay in trial cannot be said to be fettered under Section 37 of the NDPS Act, given the imperative of Section 436-A of Cr.P.C. which is applicable to offence under the Act. It was also observed that jails are



overcrowded and their living conditions are, more often than not, appalling. The danger of unjustified imprisonment is that inmates are more likely to be hardened rather than reformed. Reliance can also be placed upon *Manmandal and Another v. State of West Bengal, Special Leave Petition (Criminal) No.8656 of 2023 decided on 14.09.2023 and Rabi Prakash v. State of Odisha, 2023 LiveLaw (SC) 533*, wherein the Hon'ble Supreme Court had extended benefit of bail to the accused who had been incarcerated for a long period by observing that prolonged incarceration militated against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the constitutional principles must override the statutory embargo contained under Section 37 of the NDPS Act.

8. Reliance can also be placed upon *Santosh Pawar Vs. State of Chhattishgarh & Anr., Criminal Appeal No.4883/2025*, wherein the Hon'ble Supreme Court observed that rigors of Section 37 of NDPS Act will not be a bar for considering the case of an accused for bail as it comes with a condition that the prosecution would press for an early completion of trial. In the above-mentioned case, the Hon'ble Supreme Court held that appellant who was being prosecuted for being in possession of commercial quantity of narcotic substance, was entitled for bail in view of her incarceration for a period of 19 months.

9. Similarly in *Satender Kumar Antil v. Central Bureau of Investigation, (2022) 10 SCC 51* prolonged incarceration and inordinate delay engaged the attention of the Hon'ble Supreme Court, which considered



the correct approach towards bail, with respect to several enactments, including Section 37 NDPS Act. The court expressed the opinion that Section 436A (which requires inter alia the accused to be enlarged on bail if the trial is not concluded within specified periods) of the Criminal Procedure Code, 1973 would apply.

10. In the case of *Ismail Khan @ Pathan vs. State of Rajasthan Crminal Appeal No.4911 of 2025* with regard to recovery of commercial quantity of narcotic substance, the Hon'ble Supreme Court accorded the benefit of bail to the accused in view of prolonged incarceration for a period of 02 years and 08 months of the accused.

11. On analyzing the peculiar facts and circumstances of the present case in the light of the aforementioned principles of law, it transpires that the petitioner has suffered prolonged incarceration for a period of 02 years and 22 days. The trial is not likely to be concluded in near future as only 02 out of 12 prosecution witnesses have been examined so far. The continued detention of the petitioner is not likely to serve any fruitful purpose. There is nothing on record to show that if released on bail, the petitioner will not participate in the trial or will abscond.

12. In view of the above discussion, this Court is of the opinion that a case is made out for grant of bail to the petitioner at this stage. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal as well as surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.



13. It is, however, clarified that the observations made above shall not be construed as an expression of opinion of this Court on the merits of the case and shall not influence the outcome of the trial in any manner.

14. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

18.08.2026
Amit Sharma

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