



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(206)

CRM-M-42272-2026 (O&M)
Date of Decision:11.09.2026

GHANSHYAM PATIDAR

... Petitioner

Versus

STATE OF HARYANA

... Respondent

-. -

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Aditya Sanghi, Advocate along with
Mr. Rajiv Goel, Advocate;
Mr. Saurabh Sharma, Advocate
for the petitioner(s).

Mr. Tanuj Sharma, Asst. AG, Haryana.

-. -

VIRINDER AGGARWAL, J. (Oral)

1. Second petition under Section 483 of the BNSS, 2023 (akin to Section 439 Cr.P.C.), seeking grant of regular bail to petitioner- Ghanshyam Patidar, aged 33 years, during pendency of trial in the following FIR:-

Particulars	Details
FIR No. & Date	158 dated 14.10.2025
Sections	Sections 17(c), 29 and 27-A of the NDPS Act, 1985
Police Station	Odhan, District Dabwali, Haryana

1.1. The earlier petition filed by the petitioner was dismissed as withdrawn vide order dated 26.05.2026.



2. Brief facts essential for adjudication of the present bail application are that, on 14.10.2025, co-accused Dinesh Kumar Sethia was apprehended within the jurisdiction of Police Station Odhan and found in conscious possession of 3 kilograms 117 grams of opium, allegedly without any valid permit or licence, after compliance with the applicable provisions of the NDPS Act. During investigation, he allegedly suffered a disclosure statement dated 19.10.2025, stating that the recovered contraband had been purchased by him from the petitioner for onward supply to co-accused Vinod Kumar.

3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. It is contended that the alleged recovery of 3.117 kilograms of opium was effected from co-accused Dinesh Kumar and not from the petitioner. The initial disclosure statement of co-accused Dinesh Kumar did not implicate the petitioner as the supplier; it was only in a subsequent disclosure statement that the petitioner was named, rendering his alleged involvement a matter requiring careful scrutiny. The petitioner has remained in custody since 23.10.2025, the challan has already been presented, and the trial is progressing at a slow pace. It is further submitted that the delay is not attributable to the petitioner and his continued incarceration for an indefinite period would offend the fundamental right to personal liberty guaranteed under Article 21 of the Constitution of India. On these premises, grant of regular bail has been prayed for.

4. Learned State counsel vehemently opposes the prayer for regular bail and submits that, having regard to the nature, gravity and



seriousness of the allegations, the quantity of the contraband involved and the manner in which the offence is alleged to have been committed, the petitioner does not deserve the concession of regular bail at this stage. Dismissal of the present petition, being devoid of merit, has accordingly been prayed for.

5. The right to a speedy trial is an integral facet of the fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India. The constitutional mandate is not confined merely to ensuring a fair trial but also obligates the State to conclude criminal proceedings within a reasonable time so that the process itself does not become punitive.

6. The Hon'ble Supreme Court in *Hussainara Khatoon v. Home Secretary, State of Bihar, 1980 (1) SCC 81*, authoritatively held that the right to a speedy trial is an essential and integral part of Article 21, and that any procedure which permits prolonged incarceration without expeditious trial cannot be regarded as fair, just or reasonable. The aforesaid principles are in consonance with the Constitution Bench decisions in *A.R. Antulay v. R.S. Nayak, 1992 (1) SCC 225*, and *P. Ramachandra Rao v. State of Karnataka, 2002 (4) SCC 578*, wherein it was held that the right to a speedy trial is a fundamental right flowing from Article 21 and constitutional courts are duty-bound to intervene wherever inordinate and unexplained delay results in denial of substantive justice.

7. Recently, the Hon'ble Supreme Court, in *Tapas Kumar Palit v. State of Chhattisgarh, 2025 SCC OnLine SC 322* and in *Arvind Dham v. Directorate of Enforcement, 2026 (2) SSC(Criminal) 271*, the Court



categorically held that "the right to a speedy trial, enshrined under Article 21 of the Constitution, is not eclipsed by the nature of the offence." It was further held that prolonged incarceration of an undertrial, without commencement or reasonable progress of the trial, effectively converts pre-trial detention into a form of punishment and cannot be constitutionally sustained. The Court observed that if the State or the prosecuting agency is unable to secure an accused's fundamental right to a speedy trial, it cannot oppose the grant of bail merely on the ground of the seriousness of the allegations, as Article 21 prevails over statutory restrictions where continued incarceration becomes oppressive and unjustified.

8. This constitutional position has acquired greater significance in prosecutions under special statutes containing restrictive bail provisions. The Narcotic Drugs and Psychotropic Substances Act, 1985 is undoubtedly a stringent penal statute enacted to combat the menace of illicit trafficking in narcotic drugs and psychotropic substances. The principle was specifically applied to prosecutions under the **NDPS Act** in ***Mohd. Muslim @ Hussain v. State (NCT of Delhi)*, 2023 SCC OnLine SC 352**. The Apex Court held that Section 37 of the NDPS Act cannot be construed so rigidly as to compel indefinite incarceration of an undertrial merely because the trial has not progressed. The Court observed that a literal interpretation of Section 37, divorced from constitutional values, would amount to sanctioning punitive detention before conviction. It was emphatically held that where the State is unable to conclude the trial within a reasonable time, the rigours of Section 37 necessarily yield to the constitutional mandate of Article 21. The Court further observed that Section 436A



Cr.P.C. applies even to prosecutions under special statutes and constitutes an important legislative safeguard against indefinite pre-trial detention.

9. Recently, in *Rabi Prakash v. State of Odisha, 2023 SCC OnLine SC 1109* and *Javed Gulam Nabi Shaikh v. State of Maharashtra, 2024 SCC Online SC 1693*, the Hon'ble Supreme Court reiterated that prolonged incarceration militates against the most cherished fundamental right under Article 21. The Court observed that where the accused has remained in custody for an unduly long period and the trial is nowhere near completion, constitutional liberty must prevail over the statutory embargo contained in Section 37 of the NDPS Act. The Court succinctly held that conditional liberty must override the statutory embargo when the constitutional guarantee itself stands threatened. Similarly, the Apex Court has recently reaffirmed these constitutional principles in.

10. Thus, the legal position that emerges from the above authorities is that while offences under the NDPS Act are undoubtedly grave and the statutory conditions governing bail are stringent, the constitutional guarantee of a speedy trial under Article 21 remains paramount. Courts are required to balance the societal interest in effective prosecution with the individual's fundamental right to personal liberty. Prolonged incarceration of an undertrial without meaningful progress in the trial cannot be justified merely by invoking the rigours of Section 37 of the NDPS Act. In such exceptional circumstances, Constitutional Courts are duty-bound to harmonise the statutory restrictions with the fundamental right to personal liberty and ensure that pre-trial detention does not degenerate into punishment before adjudication of guilt. Where delay is inordinate and not



attributable to the accused, constitutional courts are empowered to grant appropriate relief so as to prevent violation of Article 21.

11. It is equally relevant to note that while Section 37 prescribes stringent conditions for grant of bail, the NDPS Act itself reflects the legislative intent that such prosecutions should proceed expeditiously. Section 36 empowers the Government to constitute Special Courts for the very purpose of ensuring speedy trial of NDPS offences. Therefore, the statutory scheme itself proceeds on the assumption that greater restrictions on bail are constitutionally sustainable only when accompanied by equally expeditious adjudication. Where the State fails to provide the infrastructure necessary for speedy disposal, continued reliance upon Section 37 alone would produce an unconstitutional imbalance between individual liberty and societal interest. Delay defeats that legislative premise. If trials remain pending for years because of systemic inadequacies, repeated adjournments, non-production of witnesses, or institutional delays not attributable to the accused, continued incarceration ceases to be preventive and assumes a punitive character.

12. In view of the aforesaid factual and legal position, the petitioner cannot be subjected to indefinite incarceration merely on account of the alleged recovery falling within the commercial quantity category. The object of pre-trial detention is to secure the petitioner's presence during trial and not to permit incarceration to assume the character of punishment before conviction. Since investigation already stands concluded, the petitioner has remained in custody since 23.10.2025, the alleged contraband was recovered from co-accused Dinesh Kumar, and the



delay in trial is not attributable to the petitioner, his continued incarceration, particularly when the trial is progressing at a slow pace, would militate against the constitutional guarantee under Article 21.

13. The prosecution seeks to further connect the petitioner through an alleged WhatsApp chat with the co-accused, wherein the expression “*Road Ka Raja Ki Jai*” appears. Learned counsel for the petitioner submits that the said expression refers to the temple of a local deity, whereas learned State counsel contends that it pertains to a truck being on the road. The true purport and evidentiary significance of the said cryptic expression are matters to be examined during trial. At this stage, the petitioner’s alleged connection with the recovery rests principally upon the subsequent disclosure statement of the co-accused and the aforesaid ambiguous communication. Coupled with the petitioner’s prolonged incarceration and the likelihood of the trial consuming considerable time, this Court is of the considered view that further custodial detention is not warranted.

13.1. Accordingly, the present petition is allowed and the applicant-petitioner is ordered to be admitted on regular bail, subject to his furnishing requisite bail and surety bonds to the satisfaction of the Chief Judicial Magistrate concerned/Illaqa Magistrate/Duty Magistrate, as the case may be, and further subject to the following conditions:-

- i. The petitioner(s) shall not, directly or indirectly, make any inducement, threat, or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts before the Court or to the Investigating Agency.



- ii. The petitioner(s) shall not tamper with the prosecution evidence in any manner whatsoever, nor shall the petitioner(s), directly or indirectly, attempt to influence, intimidate, or contact any prosecution witness.
- iii. The petitioner(s) shall not leave the territorial limits of India without obtaining the prior permission of the learned Trial Court. In the event any of the petitioner(s) is in possession of a passport, the particulars thereof shall be furnished before the Investigating Officer as well as the learned Trial Court.
- iv. Before accepting the bail and surety bonds, the learned Illaqa Magistrate/Duty Magistrate/C.J.M. concerned shall obtain from the petitioner(s) the permanent residential address as well as the present correspondence address, duly supported by appropriate documentary proof. The Investigating Officer shall verify the correctness of the said addresses within 48 hours of the acceptance of the bail bonds and place a verification report on record. In the event any of the addresses is found to be false, fictitious, or incorrect, it shall be open to the prosecution to seek cancellation of the concession of bail in accordance with law.
- v. The petitioner(s) shall furnish before the learned Trial Court, either at the time of furnishing the bail bonds or within such period as may be specified by the Court, the Permanent Account Number (PAN), Aadhaar Number, particulars of all operative bank accounts, and a declaration disclosing details of immovable properties, if any. Any concealment of material particulars or furnishing of false information shall constitute a valid ground for seeking cancellation of the concession of bail in accordance with law.



- vi. The petitioner(s) shall intimate the Investigating Officer as well as the learned Trial Court, in writing, of any change in residential address or mobile number within seven days of such change.
- vii. The petitioner(s) shall not commit any offence of a similar nature during the pendency of the trial and shall remain present before the learned Trial Court on each and every date fixed, unless personal appearance is exempted in accordance with law. The petitioner(s) shall not absent from the proceedings without obtaining prior permission of the learned Trial Court. In the event of violation of any of the aforesaid conditions or unauthorized absence from the trial proceedings, it shall be open to the learned Trial Court to proceed in accordance with law, including cancellation of the concession of bail and issuance of appropriate coercive process, including warrants of arrest.
14. In view of the final adjudication of the principal proceedings, all pending miscellaneous applications, if any, arising therefrom or ancillary thereto, shall stand disposed of accordingly, the same having been rendered infructuous by the final determination of the substantive proceedings. No separate or further order is warranted in respect thereof.

11.09.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No