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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC011010652025

+ **BAIL APPLN. 4848/2025 and CRL.M.A. 37315/2025**

HARJINDER SINGH @ RINDI

.....Petitioner

Through: Mr. Sunil Kumar Mehta, Advocate.

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Mukesh Kumar, APP.
SI Dharmender, Spl. Cell, NR & STF.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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01.09.2026

1. The applicant by way of this application seeks for grant of regular bail in connection with FIR No. 63/2015 for offence under Sections 18/21/22/25 29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 registered at Police Station Special Cell, Lodhi Colony, Delhi.
2. Learned counsel appearing for the applicant submits that the applicant is innocent and has been falsely implicated. It is contended that there has been non-compliance with Sections 41, 42, 50, 52A and 57 of the NDPS Act, which, according to learned counsel, casts doubt on the alleged recovery. It is further submitted that there is no material connecting the applicant with the alleged conspiracy.



3. Learned counsel further submits that the applicant has undergone more than eight years of incarceration, whereas only 6 out of 53 prosecution witnesses have been examined so far. It is, therefore, contended that the trial is likely to take some time to conclude. Learned counsel also submits that the other co-accused have already been granted regular bail.

4. Learned counsel further submits that the applicant had earlier been granted interim bail on various occasions and had complied with the conditions imposed upon him. It is submitted that there is no likelihood of the applicant tampering with the prosecution evidence or evading the process of law and that he is willing to abide by any condition that may be imposed by this Court.

5. Mr. Mukesh Kumar, learned APP for the State, strongly opposes the present application. He submits that 1 kg of heroin was recovered from the Verna car of the applicant at the time of his apprehension. It is further submitted that the material on record includes the recovery, the disclosure statements, CDR connectivity, intercepted calls and the FSL report regarding the voice samples of the accused persons. Learned APP submits that the alleged recoveries in the present case form part of a larger chain of narcotic transactions involving the co-accused and that the quantity involved is commercial.

6. Learned APP further submits that the rigours of Section 37 of the NDPS Act are attracted, having regard to the nature and quantity of the contraband involved. It is also submitted that the applicant has previous involvement in four criminal cases. On these grounds, learned APP submits that the applicant is not entitled to the grant of regular bail.

7. Learned APP further submits that the applicant had earlier been



granted interim bail and, thereafter, was arrested in another case. It is contended that the applicant did not surrender upon expiry of the interim bail and was consequently declared a proclaimed offender. Learned APP, therefore, submits that there is a likelihood of the applicant not being available for the proceedings if released on bail.

8. In response, learned counsel for the applicant submits that, out of the cases relied upon by the prosecution, the applicant has already been acquitted in two cases, namely FIR No. 37/2014 under Section 15 of the NDPS Act, registered at P.S. Division No. 7, District Jalandhar, and FIR No. 27/2015 under Section 22 of the NDPS Act, registered at P.S. Mehatpur, District Jalandhar. In respect of FIR No. 249/2023, registered at P.S. Sidhwan Bet, District Ludhiana, under Sections 15 and 25 of the NDPS Act, Section 25 of the Arms Act and Section 473 IPC, the applicant has been granted regular bail by the High Court of Punjab and Haryana *vide* order dated 14.07.2026. It is submitted that the applicant is entitled to consideration of bail, *inter alia*, on account of the prolonged incarceration and the delay in conclusion of the trial.

9. I have considered the submissions made by learned counsel for the parties and have perused the record.

10. The facts of the case would indicate that the present applicant, Harjinder Singh, was apprehended on 18.11.2015 pursuant to secret information, when 1 kg of heroin was allegedly recovered from his Verna car. The prosecution case is that the applicant was part of a larger narcotics syndicate involved in the supply of heroin across different States. The prosecution relies, *inter alia*, upon the recovery, the vehicle seized from the spot, the disclosure statements, CDR connectivity, intercepted calls and the



FSL report regarding the voice samples. Charges have been framed against the accused persons and the trial is presently underway.

11. There are nine accused persons in the present FIR, out of whom three have been declared proclaimed offenders. Of the remaining six accused persons, five have already been enlarged on regular bail, whereas the present applicant continues to remain in judicial custody.

12. The recovery whether satisfied the test laid down under the provisions of NDPS Act or otherwise would be an aspect which will have to be considered by the concerned Trial Court at the time of passing the final decision.

13. As per the nominal roll dated 01.09.2026, the applicant has undergone judicial custody of 5 years, 2 months and 23 days in the present case.

14. Learned counsel for the applicant, however, disputes the aforesaid computation and submits that the period during which the applicant remained in custody in FIR No. 249 dated 12.12.2023, registered at P.S. Sidhwan Bet, District Ludhiana, is also liable to be taken into consideration for computing the period of incarceration in the present case.

15. Whether the aforesaid period of custody is liable to be reckoned in the present case is an issue which would require consideration by the concerned Court. However, even without taking into account the period of custody undergone in the said case, the applicant has undisputedly remained in custody for more than five years in the present case.

16. This Court, *vide* order dated 23.07.2026, directed the concerned Court to submit a report regarding the stage of the trial, which has since been received. The report indicates that approximately 755 cases were pending before the concerned Court. The said Court has, *vide* order dated



01.08.2026, been abolished by this Court and the matters have been redistributed amongst other Courts; accordingly, the timeline for conclusion of the present trial would have to be indicated by the newly designated Court. Out of 55 prosecution witnesses, 13 have been examined so far. The evidence recorded is voluminous and involves lengthy examination and cross-examination. The trial is, therefore, likely to take some time to conclude.

17. Though the entire delay in conclusion of the trial may not be attributable to the prosecution, and some part of the delay is attributable to the repeated non-production/absence of the accused, execution of coercive proceedings against the absconding accused, disruption caused by the COVID-19 pandemic and other administrative and judicial constraints, the overall period of incarceration and the attendant circumstances can nevertheless be taken into consideration.

18. There can be no quarrel with the proposition that the alleged recovery is of commercial quantity and, therefore, the embargo contained in Section 37 of the NDPS Act would ordinarily govern the consideration of the present application. Equally, however, it is now well settled that the restrictions under Section 37 cannot be construed in a manner so as to completely eclipse the constitutional guarantee of personal liberty under Article 21 of the Constitution of India, particularly where an undertrial has remained incarcerated for an unduly long period and the trial shows no real prospect of early conclusion.

19. The Supreme Court in the case of ***Rabi Prakash v. The State Of***



Odisha,¹ has duly observed:

*“4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent - State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. **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.***

[Emphasis supplied]

20. In **Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India**,² recognised that while Section 37 of the NDPS Act imposes stringent conditions for the grant of bail, denial of bail coupled with prolonged delay in trial would result in continued deprivation of personal liberty without a timely adjudication of guilt, a consequence incompatible with the guarantee of a fair and speedy trial under Article 21 of the Constitution:

*"15. On account of the strict language of the said provision very few persons accused of certain offences under the Act could secure bail. **Now to refuse bail on the one hand and to delay trial of cases on the other is clearly unfair and unreasonable and contrary to the spirit of Section 36(1) of the Act, Section 309 of the Code and Articles 14, 19 and 21 of the Constitution.** We are conscious of the statutory provision finding place in Section 37 of the Act prescribing the conditions which have to be satisfied before a person accused of an offence under the Act can be released. Indeed we have adverted to this section in the earlier part of the judgment. We have also kept in mind the interpretation placed on a similar provision in Section 20 of the TADA Act by the Constitution Bench in Kartar Singh v. State of Punjab [(1994) 3 SCC 569]. Despite this provision, we have directed as above mainly at the call of Article 21 as the right to speedy trial may even require in some cases quashing of a criminal proceeding altogether, as held by a Constitution Bench of this Court in A.R. Antulay v. R.S. Nayak [(1992) 1 SCC 225], release on bail, which can be taken to be embedded in the right of speedy trial, may, in some cases be the*

¹ 2023 SCC OnLine SC 1109

² (1994) 6 SCC 731



demand of Article 21. As we have not felt inclined to accept the extreme submission of quashing the proceedings and setting free the accused whose trials have been delayed beyond reasonable time for reasons already alluded to, we have felt that deprivation of the personal liberty without ensuring speedy trial would also not be in consonance with the right guaranteed by Article 21. Of course, some amount of deprivation of personal liberty cannot be avoided in such cases; but if the period of deprivation pending trial becomes unduly long, the fairness assured by Article 21 would receive a jolt.”

[Emphasis supplied]

21. The Supreme Court in ***Union of India v. K.A. Najeeb***,³ held that statutory restrictions on the grant of bail, including those contained in special enactments such as Section 43-D(5) of the UAPA and NDPS Act, do not denude constitutional courts of their power to grant bail where continued incarceration results in a violation of the fundamental right to personal liberty and speedy trial guaranteed under Article 21 of the Constitution.

“12. Even in the case of special legislations like the Terrorist and Disruptive Activities (Prevention) Act, 1987 or the Narcotic Drugs and Psychotropic Substances Act, 1985 (“the NDPS Act”) which too have somewhat rigorous conditions for grant of bail, this Court in Paramjit Singh v. State (NCT of Delhi), (1999) 9 SCC 252, Babba v. State of Maharashtra, (2005) 11 SCC 569 and Umarmia v. State of Gujarat, (2017) 2 SCC 731 enlarged the accused on bail when they had been in jail for an extended period of time with little possibility of early completion of trial. The constitutionality of harsh conditions for bail in such special enactments, has thus been primarily justified on the touchstone of speedy trials to ensure the protection of innocent civilians.”

*“15. This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India, it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. **However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, the courts are tasked with deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible***

³ (2021) 3 SCC 713



and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail. ”

[Emphasis supplied]

22. The aforesaid principle has been specifically applied to prosecutions under the NDPS Act by the Supreme Court in ***Mohd. Muslim @ Hussain v. State (NCT of Delhi)***⁴. The Court observed that an interpretation of Section 37 which results in an accused remaining in custody for years awaiting conclusion of trial would militate against the guarantee of a speedy trial under Article 21.

“22.....Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436A which is applicable to offences under the NDPS Act too (ref. Satender Kumar Antil supra). Having regard to these factors the court is of the opinion that in the facts of this case, the appellant deserves to be enlarged on bail.”

23. As aptly observed by division Bench of this Court in ***Mohd. Hakim v. State (NCT of Delhi)***⁵, the Court must play the role of a “doctor” rather than a “coroner”, by protecting the right to a speedy trial before it is rendered illusory by prolonged incarceration, instead of recognising its violation after the constitutional injury has become irreversible.

24. Tested on the aforesaid principles, this Court finds that the applicant has remained in custody for more than 5 years. Investigation already stands completed and the chargesheet has been filed. The trial has progressed at a slow pace and out of 53 witnesses only 6 witnesses examination-in-chief has been carried out, despite the long period of incarceration undergone by the applicant. Trial doesn’t seem to be concluded in near future.

25. Bearing in mind the period of incarceration undergone by the

⁴ (2023) 18 SCC 166

⁵ 2021 SCC OnLine Del 4623



applicant and the aforesaid decisions of the Supreme Court, this Court deems it appropriate to enlarge the applicant on regular bail, subject to such terms and conditions as may be imposed by the concerned Trial Court. The Trial Court shall, *inter alia*, require the applicant to furnish two local sureties and impose such other conditions as may ensure his presence before the concerned Court on each date of hearing. In the event of the applicant's involvement in any other case of a similar nature, the Investigating Agency shall be at liberty to seek cancellation of the bail.

26. Nothing stated, hereinabove, shall be construed as an expression on the merits of the case. The observations made herein are confined solely to the adjudication of the present bail application. The Trial Court shall adjudicate the matter independently and in accordance with law, on the basis of the evidence adduced before it.

27. The application stands disposed of.

28. Copy of the order to be forwarded to the concerned Jail Superintendent for necessary compliance.

PURUSHAINDR KUMAR KAURAV, J

SEPTEMBER 1, 2026

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