



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.15253 of 2025 (O&M)
Date of Decision: 01.12.2025

Balkaran Singh @ Gori

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. I.P.S.Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 22(c) and 27, 61, 85 of Narcotic Drugs & Psychotropic Substances Act, 1985, hereinafter being referred to as 'NDPS Act', the FIR No.114 dated 21.08.2023, has been lodged in Police Station Kotbhai, District Sri Muktsar Sahib. The petitioner has been arrested in the above mentioned case as an accused. Since the petitioner is in custody, he has filed the present petition for the benefit of bail. This is 2nd petition for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being on 21.08.2023 when a police party headed by SI 'Malkeet Singh' spotted a biker who on seeing the presence of police party near him got panicked. According to prosecution the above named biker abruptly stopped the motorcycle and attempted to discard an object from a



black colored bag attached to the motorcycle. It is the case of the prosecution that in view of above mentioned unusual and suspicious behaviour, the above said person was detained, and his name & address were inquired. According to prosecution, the above said person disclosed his name as 'Balkaran Singh' @ 'Gori', and when the contents of the bag being carried by him were checked it was found that in the above mentioned bag he was carrying 287 grams of intoxicating power, which was later on found to be 'Tramadol Hydrochloride'.

3. It is the case of the prosecution that in view of recovery of above mentioned contraband the usual formalities with regard to seizure and sealing of contraband and filing of FIR and arrest of accused were performed and thereafter further investigation was taken up.

4. Heard.

5. It has been contended on behalf of the petitioner that petitioner has been falsely implicated in the present case, and he has no nexus whatsoever with the commission of crime. According to learned counsel for the petitioner in the present case the quantity of contraband recovered from the possession of the petitioner is marginally above the lower limit prescribed for commercial quantity, i.e. 287 grams against the prescribed limit for commercial quantity of 250 grams. As per learned counsel for the petitioner, the petitioner has already suffered a prolonged incarceration for being in custody for a period of more than 2 years and 3 months, and that the trial is taking place at a very slow pace, as out of 15 only 3 witnesses have been examined so far.

6. It has also been contended by learned counsel for the petitioner



that this is the second petition for bail and that the first petition was dismissed on 07.11.2024 on merit. According to learned counsel for the petitioner since from the date of dismissal of former bail application a period of more than 1 year has passed and the trial has not progressed significantly, the petitioner is eligible to maintain the present petition.

7. The above mentioned arguments have been controverted by the learned State counsel. According to learned State counsel the recovery of contraband from the possession of petitioner being commercial quantity, without satisfying the rigors enshrined under Section-37 of NDPS Act the petitioner cannot be released on bail. The learned State counsel has also argued that this statement of learned counsel for the petitioner is not correct that there is delay in trial. According to learned State counsel out of 15 witnesses listed in the list of witnesses 3 have already been examined and 7 have been given. According to learned State counsel only 5 witnesses are yet to be examined, and therefore, the conclusion of trial is not likely to take a long time. According to learned State counsel, in the given fact situation, the petitioner is not entitled for the benefit of bail.

8. In addition to above the learned State counsel has also referred to the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'The State (NCT of Delhi) Narcotics Control Bureau v. Lokesh Chadha, (2021) 5 SCC 724', wherein it has been held that no person accused for offences involving a commercial quantity shall be released on bail, where the public prosecutor opposes the application, unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence



and that he is not likely to commit any offence while on bail.

9. The record has been perused carefully.

10. With regard to fact-situation of present case, the principles of law laid down by the Hon'ble Supreme Court in the case of 'Mohd. Muslim @ Hussain v. State (NCT of Delhi), (2023) 18 Supreme Court Cases 166' are relevant, wherein the Hon'ble Supreme Court has 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 which is applicable to offences under the Act.

11. In this regard it is also relevant to mention here that the Hon'ble Supreme Court of India in the case of 'Manmandal and Another v. State of West Bengal', Special Leave Petition (Criminal) No.8656 of 2023 and 'Rabi Prakash v. State of Odisha, 2023 SCC Online SC 1109', extended the benefit of bail to the accused, who had been incarcerated for a period of almost 2-3 years and the trial was likely to take considerable time. The above-mentioned benefit has been given by observing that prolonged incarceration generally militates 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.

12. In addition to above, in a recently pronounced verdict, in the case of 'Santosh Pawar Vs. State of Chhattishgarh & Anr.' Criminal Appeal No.4883/2025, the Hon'ble Supreme Court observed that rigours 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 of India 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.

13. Similarly in another case i.e. in the case of '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 of India, 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.

14. In the case of 'Ismail Khan @ Pathan vs. State of Rajasthan' Criminal Appeal No.4911 of 2025 wherein the quantity of recovered contraband was commercial quantity of narcotic substance, the Hon'ble Supreme Court of India 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.

15. The similar view has been taken in another appeal i.e. SLP No.15699-2025 titled as 'Ebrahim @ Ibrahim SK vs. The State of West Bengal' and in the case of 'Pamesh Arora vs. UT Chandigarh' Criminal Appeal No.4872 of 2025

16. If the facts and circumstances of the present case are analyzed in the light of above-mentioned principles of law, it transpires that:-



- i) that the petitioner has already suffered prolonged incarceration for a period of more than 02 years, 03 months and 5 days;
- ii) that the former bail petition of the petitioner was dismissed more than 1 year ago, and from the date of dismissal of former bail petition no significant progress in the trial has taken place;
- iii) that the trial is progressing at a very slow pace as only 2/3rd of the witnesses have been examined and 1/3rd part of list of witnesses is still remains to be exhausted;
- iv) that the quantity of contraband recovered from the petitioner is marginally above the lowest limit meant for commercial quantity;
- v) that the trial is not likely to be concluded in near future;
- vi) that nothing is left to be recovered from the possession of petitioner;
- vii) that detention of petitioner in judicial lock-up is not likely to serve any purpose;
- viii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- ix) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial;

17. In the present case, the principles of law laid down by the Hon'ble Supreme Court in the case of "***Dataram versus State of Uttar Pradesh and another***", (2018) 3 SCC 22, are also relevant, wherein it has been observed that "*a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until*



found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

18. Recently, in the case of ‘**Tapas Kumar Palit Vs. State of Chhattisgarh**’, **2025 SCC Online SC 322**, the Hon’ble Supreme Court of India has observed that “*if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed*”. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that “*delays are bad for the accused and ex-*



tremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

19. Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon’ble Apex court in *Balwinder Singh versus State of Punjab and Another, 2024 SCC Online SC 4354*.

20. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

21. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the following conditions:-

- (i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.
- (ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and



(iii) that the petitioner shall not leave India without prior permission of the trial Court.

22. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

(SURYA PARTAP SINGH)
JUDGE

01.12.2025
Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No