

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:177101



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CRM-M-21323-2025 (O&M)
Date of decision:22.12.2025

Bittu Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Manjot Kaur, Advocate for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. The present petition has been filed by the petitioner seeking benefit of regular bail in case arising out of FIR No.57, dated 30.04.2023, registered under Section 22 of the NDPS Act (offence under Section 29 of the NDPS Act and Sections 473, 483 IPC were added lateron), at Police Station Banur, District Patiala.

2. The aforementioned FIR was registered on the allegations that on 30.04.2023, the petitioner was apprehended on the basis of suspicion and 1005 tablets of Tramadol Hydrochloride had been recovered from his conscious possession. He was formally arrested. Recovered tablets were taken into possession by the police. On his disclosure, other persons were nominated as accused. Investigation now stands completed and the petitioner is facing trial for commission of the aforementioned offences.

3. Three of the regular bail applications had been dismissed as withdrawn whereas two were filed for grant of interim bail which had been allowed.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He has been in custody for over a period of 02 years, 07 months and 07 days. Trial will take considerable time to conclude. His further incarceration would not serve any useful purpose. It is, therefore, urged that the petitioner deserves to be extended the benefit of bail.

5. Status report and custody certificate have been filed by learned State counsel. She has argued that there are serious and specific allegations against the petitioner. Commercial quantity of contraband was recovered from him. Trial is going at a proper pace. There are chances of the petitioner's absconding or committing similar offences, if extended benefit of bail. Hence, it is, stressed that the petition does not deserve to be allowed.

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

7. The petitioner was found to be in conscious possession of commercial quantity of contraband. The allegations prima face make out a case for commission of the aforementioned offences. However, he has remained in custody for over a period of 02 years, 07 months and 07 days. Trial will take considerable time to conclude as 09 out of 15 witnesses have been examined so far. The petitioner is not shown to be involved in any other case of criminal nature. 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 Rabdi Prakash v. State of Odisha, 2023 SCC Online SC 110***, 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***, which is a recently pronounced verdict of Hon'ble Supreme Court observing 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 abovementioned 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.

9. 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.

10. In the case of ***Ismail Khan @ Pathan vs. State of Rajasthan Criminal Appeal No.4911 of 2025*** with regard to recovery of 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.

11. The similar benefit 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***.

12. 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 over a period of 02 years, 07 months and 07 days, the trial is not likely to be concluded in near future as only 09 out of 15 witnesses have been examined; 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.

13. 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 on his furnishing personal as well as surety bonds to the satisfaction of the learned trial Court, and subject to the condition that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case. He shall appear before the learned trial Court on each and every date of hearing except when his presence has been exempted by the trial Court. He shall surrender his passport, if any, furnish details of his cell phone and Aadhaar card, and shall not change his mobile number(s) during the pendency of the trial.

14. It is 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.

22.12.2025

harjeet

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

(MANISHA BATRA)
JUDGE