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

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**CRM-M No.25516 of 2025
Date of decision: 29.11.2025**

Baljinder Singh @ Kaka

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sandeep Verma, Advocate,
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition as filed by the petitioner for grant of regular bail in case arising out of FIR No.19 dated 02.02.2024 registered under Sections 15(c) and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station City South, District Moga. His previous petition bearing CRM-M No.44895 of 2024 was dismissed as withdrawn by this Court on 18.11.2024.

2. The aforementioned FIR was registered on the allegations that on 02.02.2024, the accused Joginder Singh @ Bhola was apprehended by a police party while he was riding a vehicle bearing registration No.PB-

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08-BD-6149 and 10 plastic sacks containing 20 kgs. each of grinded doda post i.e. total 200 kgs. doda post were recovered from the vehicle. He was formally arrested. He suffered disclosure statement to the effect that he along with the co-accused Harjit Singh was involved in the business of poppy husk. The said Harjit Singh was nominated as accused. During the course of investigation, it was found that the actual name of Joginder Singh was Baljinder Singh @ Kaka son of Mohinder Singh and a false name was projected. Offence under Section 419 of IPC was added against the petitioner. He was interrogated again and admitted that he had concealed his real name. He also disclosed that he along with the one Laddu used to supply poppy husk at Moga. Laddu was also nominated as an accused and was arrested. Investigation now stands completed and the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 05.02.2024. The trial will take considerable time to conclude. His further incarceration would not serve any useful purpose. Only 01 out of 22 witnesses have been examined so far. He is not involved in any other case of similar nature. He has a permanent abode. There are no chances of his absconding. It is, therefore, argued that he deserves to be released on bail.

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4. Per contra, learned Assistant Advocate General, Punjab has argued that taking into consideration the gravity of the allegations as levelled against the petitioner, he does not deserve to be extended benefit of bail.

5. This Court has considered the rival submissions.

6. The petitioner is alleged to have been found in conscious possession of commercial quantity of contraband as on 02.02.2024. He had concealed his real name at the time of apprehension. The allegations prima facie make out a case for commission of subject offences against him. However, it is apparent from the record that there are no chances of conclusion of the trial in near future and it will take considerable time. He has remained in custody since long. 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

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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.

7. 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 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.

8. Similarly in another case i.e. in the case of *Satender Kumar Antil v. Central Bureau of Investigation, (2022) 10 SCC 51* prolonged

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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.

9. 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.

10. 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***.

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 1 year, 09 months and 24 days, the trial is not likely to be concluded in near future as only 01 out of 23 witnesses has 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

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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 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.

13. 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.

29.11.2025
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No