

2025:PHHC:165882



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

212

**CRM-M No.27328 of 2025
Date of Decision: 28.11.2025**

Mandeep Kumar @ Mani

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Prateek Pandit, Advocate,
for the petitioner.

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

MANISHA BATRA, J. (Oral)

1. The petitioner is seeking indulgence of this Court by filing the present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") for grant of regular bail in case arising out of FIR No.122 dated 09.07.2022 registered under Sections 21, 22 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station Bhargo Camp, District Police Commissionerate Jalandhar, on the allegations that on 09.07.2022, he was apprehended and was found in conscious possession of 80 grams of heroin and 255 grams of intoxicant powder or salt of Alprazolam. He was formally arrested. Investigation now stands completed and he is facing trial for commission of the aforementioned offences. His previous petition bearing CRM-M No.2832 of 2024 has been dismissed as withdrawn vide order dated 20.08.2024.

2025:PHHC:165882



2. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody for a period of about two years and six months. The trial will still take considerable time to conclude. His continued detention would not serve any useful purpose. His involvement in other cases can also not be considered to be a reason for denying benefit of bail to him. The extended period of his incarceration has entitled him for release on bail. It is, therefore, argued that the petition deserves to be allowed.

3. Per contra, learned Assistant Advocate General, Punjab has argued that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be released on bail.

4. This Court has considered the rival submissions.

5. It is well-settled law that the Court, while considering an application for grant of bail, has to keep certain factors in mind such as whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence, circumstances which are peculiar to the case, likelihood of the offence being repeated, the nature and gravity of the accusation, severity of the punishment in the event of conviction, the danger of the accused absconding or fleeing if released on bail, and reasonable apprehension of the witnesses being threatened, etc. However, at the same time, the period of incarceration is also a relevant factor to be considered while deciding whether bail should be granted to an accused charged with an offence under the provisions of the NDPS Act. The twin conditions under Section 37 of the NDPS Act are to be satisfied. The rigors of Section 37 of the NDPS Act are attracted in this case as the accusations pertain to the

2025:PHHC:165882



recovery of commercial quantity of contraband from the petitioner. However, so far as the maintainability of the petition is concerned, it may be mentioned that an accused has a right to make successive applications for grant of bail.

6. In the instant case, contraband of commercial quantity was recovered from the petitioner. The petitioner was taken into custody on 09.07.2022 and remained in custody till 27.10.2022. He was extended benefit of interim bail vide order dated 18.10.2022 and remained on bail as such from 28.10.2022 till 31.05.2023. Now he is in custody since 01.06.2023. This factor, in the opinion of this Court, is a ground to move for bail afresh. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time, and the bail application can be considered on its own merits even if it is filed repeatedly. It has also been held that every day spent in custody can provide a new cause of action for filing a bail application under certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the rights of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since the settled principle of law is that detention prior to trial should not become punitive. Only 04 out of 11 witnesses have been examined by the prosecution till now. Obviously, the petitioner is not required for further investigation. It is true that grant of bail on account of delay in trial and long period of incarceration is to be considered in light of Section 37 of the NDPS Act. Reliance in this regard can be placed on the observations made by the Hon'ble Apex Court in

2025:PHHC:165882



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 436A of Cr.P.C. which is applicable to offences under the Act. It was also observed that the 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 ***Rabi Prakash v. State of Odisha, 2023 SCC OnLine SC 110***, wherein bail was granted to the accused, who had been incarcerated for a period of almost two to three years and the trial was likely to take considerable time. 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 principle must override the statutory embargo contained under Section 37 of the NDPS Act.

7. 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/CJM/Duty Magistrate concerned, 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

2025:PHHC:165882



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.

8. 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.

28.11.2025
harjeet

(MANISHA BATRA)
JUDGE

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