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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.38443 of 2025

Surjit Singh ... Petitioner

Versus

State of Punjab ... Respondent

1.	The date when the judgment is reserved	01.12.2025
2.	The date when the judgment is pronounced	09.12.2025
3.	The date when the judgment is uploaded on the website	10.12.2025
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. J.S. Sandhu, Advocate,
for the petitioner.

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

MANISHA BATRA, J.

1. The instant one is the third petition as filed by the petitioner 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.01 dated 03.01.2023 registered under Sections 21, 25 and 29 of Narcotic

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Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Section 25 of Arms Act, 1959 (For short "Act, 1959") (Section 307 of IPC added later on) at Police Station State Special Operations Cell Amritsar, District Intelligence Wing (SSOC). The previous two petitions as filed by the petitioner had been dismissed as withdrawn.

2. As per the allegations, on 03.01.2023, a secret information was received to the effect that accused Gurvinder Singh and Harpreet Singh @ Happy were involved in the business of illicit trading of contrabands by forming a gang and on that very day, they were going towards Amritsar on an I-20 car bearing registration No.PB02-2053 with a big consignment of heroin and could be apprehended. Believing the secret information to be true, a raiding party was formed and a barricade was laid. Sometime thereafter, the above mentioned car reached at the spot. Signal was given to stop them but the occupants sitting besides the driver seat fired shots with some firearm upon the police officials and tried to run away. They were chased by the police officials and after some distance, found that the car had met with an accident due to foggy weather. The occupants thereof had managed to flee. On conducting search, 2 cartridges cases of .32 bore, 6 live cartridges of .32 bore, mobile phone and some sale certificate was kept lying in the car. Offences under Section 307 IPC and Section 25 of Act, 1959 were added as FIR was already registered on tahrir being sent by the police officials.

3. As per the further allegations, on 04.01.2023, a secret

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information was received that the above named accused had gone to the rented house of the petitioner who is their relative and had concealed the contraband there. The police party reached at the house of the petitioner. He was apprehended. On interrogation, he suffered a disclosure statement to the effect that the accused Gurvinder Singh and Harpreet Singh had come to his house on 03.01.2023 and had concealed their bag in his house. The said bag was got recovered by the petitioner and it was found to be containing 5 kgs. of heroin. The petitioner was arrested. Subsequently, the co-accused were also arrested. Investigation now stands completed and the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

4. 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 over 02 years and 11 months. He has clean antecedents. He is 72 years old person who has undergone cataract surgery recently. He is suffering from other ailments also. His continued detention would not serve any useful purpose. The trial is not likely to conclude in near future as only 04 out of 27 witnesses have been examined so far. It is, therefore, argued that he deserves to be released on bail.

5. Per contra, learned Assistant Advocate General, Punjab has argued that the allegations against the petitioner are serious and specific in nature. There are chances of his absconding if extended benefit of bail. The rigors of Section 37 of NDPS Act are attracted in this case. The previous

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petitions as filed by the petitioner were dismissed as withdrawn. No new ground for grant of bail is made out. It is, thus, stressed that the petition is liable to be dismissed.

6. This Court has considered the rival submissions.

7. The petitioner is alleged to have got recovered 5 kg of contraband heroin from his house which was allegedly kept concealed at the behest of co-accused Gurvinder Singh and Harpreet Singh. Though the allegations prima facie show the complicity of the petitioner in the crime, however, he is in custody since 07.01.2023. 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 27 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

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NDPS Act. Reliance in this regard can be placed on the observations made by the 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 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 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 above-mentioned case the

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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. 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 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.

09.12.2025
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(MANISHA BATRA)
JUDGE

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