

CRM-M-40575-2025

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40575-2025

EMIL BODRA

.... Petitioner

Versus

STATE OF PUNJAB

...Respondent

1	The date when the judgment is reserved	10.12.2025
2	The date when the judgment is pronounced	11.12.2025
3	The date when the judgment is uploaded on the website	11.12.2025
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. Ashish Nagar, Advocate for the petitioner

Ms. Sakshi Bakshi, AAG, Punjab

MANISHA BATRA, J.

1. The instant one is the third petition for grant of regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’) filed by the petitioner in case arising out of FIR No.0032 dated 17.04.2023 registered under Sections 18, 29 of Narcotics Drugs and Psychotropic Substances Act (for short ‘NDPS’) registered at PS Sadar Banga, District SBS Nagar. The previous petitions as filed by the petitioner had been dismissed as withdrawn/not pressed.

**CRM-M-40575-2025****-2-**

2. As per the allegations, on 17.04.2023, the petitioner alongwith the co-accused-Buddhu alias Ramu was found in conscious possession of 5 Kg of opium which was taken into custody. The petitioner and co-accused were formally arrested. Investigation now stands completed and the petitioner alongwith 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 for a period of over two years and seven months. False recovery has been planted upon him. The trial will take considerable time to conclude as only 05 witnesses have been examined, so far. He has clean antecedents. No useful purpose would be served by his continued detention. It is, therefore, argued that he deserves to be released on bail.

4. Per contra, learned State Counsel has argued that commercial quantity of contraband was recovered from the petitioner. There are chances of his committing similar offences or absconding, if extended benefit of bail. It is, therefore, argued that he does not deserve to be released on bail.

5. This Court has heard the rival submissions made by both the parties.

6. The petitioner alongwith the co-accused is alleged to have been found in conscious possession of commercial quantity of contraband. He is in custody since 21.04.2023. 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



CRM-M-40575-2025

-3-

conclusion of the trial in near future and it will take considerable time. The petitioner 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 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



CRM-M-40575-2025

-4-

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.

8. 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.

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***.

**CRM-M-40575-2025****-5-**

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 2 year and 7 months, the trial is not likely to be concluded in near future; 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.

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 subject to his furnishing personal as well as 02 surety bonds, one of which should be a local surety and to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned and on the following conditions:-

- (i) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case in any manner whatsoever.
- (ii) he shall not leave the country under any circumstance without permission of the learned trial Court.
- (iii) he shall appear before the learned trial Court as and when directed.

**CRM-M-40575-2025****-6-**

(iv) he shall provide his address where he would be residing after release and shall not change the same without informing the concerned IO/SHO.

(v) the petitioner shall upon his release give his mobile phone number to concerned IO/SHO and shall keep his mobile phone switch on all times.

(vi) he shall appear before the SHO of the concerned Police Station wherein he is facing trial on the first Monday of every month and shall record his presence. The concerned SHO in case of any default by the petitioner shall immediately inform the learned Trial Court about the absence of the petitioner who shall be at liberty to cancel the bail of the petitioner after granting opportunity of being heard.

(vii) 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. In the event of there being any FIR/complaint lodged against the petitioner, it shall be open to the respondent-State to seek redressal by filing an application seeking cancellation of bail.

14. It is further clarified that if the petitioner violates any bail condition, the State shall be at liberty to file an application for cancellation of the bail before the trial Court.



CRM-M-40575-2025 -7-

15. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and shall not influence the outcome of the trial.

16. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

**(MANISHA BATRA)
JUDGE**

11.12.2025	Whether speaking/reasoned:-	Yes/No
Amit Sharma	Whether reportable:-	Yes/No