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

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CRM-M-43546-2025 (O&M)
Date of decision : 09.12.2025

Nishan Singh @ Scooter**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Rishu Mahajan, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition that has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in FIR No. 55 dated 11.05.2024, registered under Sections 21(C) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Sultanwind, District Amritsar. The previous petition was dismissed on 24.03.2025.

2. As per the allegations, co-accused Tanveer Singh @ Tannu was apprehended by a police party on 11.05.2024 and 255 grams of heroin was recovered from him. He suffered disclosure statement, on the basis of which, co-accuse Gubakshish Singh was nominated as supplier of the contraband. Co-accused Gubakshish Singh was arrested on 29.05.2024. He too suffered disclosure statement, on the basis of which, co-accused Manpreet @ Mannu was arrested and then on the disclosure made by him, the present petitioner was nominated as an additional accused in this case on the allegations that he had

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supplied the recovered contraband to the co-accused. 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 on the basis of the disclosure statement of the above named co-accused, which cannot be considered to be admissible in evidence. He is in custody since 05.06.2024. After dismissal of his previous petition and till date, only 03 witnesses out of total 23 witnesses have been examined. Trial will take considerable time to conclude. His further detention would not serve any useful purpose. Each day spent by him in custody from the date of dismissal of his previous petition has created a new cause of action and ground to seek concession of bail. His involvement in other cases cannot be made a ground to deny him bail in this case. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be released on regular bail.

4. Status report along with the custody certificate of the petitioner has been filed by the respondent-State. Learned State counsel has argued that the previous petition of the petitioner was dismissed on merits by passing a detailed order. There is no new or substantive change in the circumstances. The allegations against him are serious in nature. He is a habitual offender and there are chances of his committing similar offences, if extended benefit of bail. It is, thus, argued that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

6. The well settled proposition of law is that the Court while considering an application for grant of bail has to keep certain factors in mind,

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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 accused; 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 accused absconding or fleeing, if released on bail and reasonable apprehension of the witnesses being threatened. The period of incarceration is also relevant fact that is to be considered. It is also unequivocally established that, to be granted bail, the accused charged with offence under the provisions of NDPS Act must fulfill the conditions stipulated in Section 37 of the Act. A contention has been raised that the rigors of Section 37 of the NDPS Act are attracted in the present case as there is recovery of commercial quantity of contraband.

7. The case of the prosecution is that the name of the petitioner was disclosed by the above named co-accused, who himself was nominated on the basis of the disclosure statement suffered by another co-accused. As per the allegations, the co-accused had sourced the contraband from the petitioner. In ***Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1***, it was observed by Hon'ble Apex Court that the disclosure statements made under Section 67 of NDPS Act, are inadmissible in evidence unless corroborated by independent material. 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. In the case of ***Ismail Khan @ Pathan v. 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. The similar benefit has been

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taken in another appeal i.e. SLP No.15699-2025 titled as ***Ebrahim @ Ibrahim SK v. The State of West Bengal*** and in the case of ***Pamesh Arora vs. UT Chandigarh*** Criminal Appeal No.4872 of 2025.

8. Now adverting to the case in hand. The petitioner has remained in custody for a period over 01 year and 06 months. A considerable number of witnesses i.e. 20 witnesses are yet to be examined. Meaning thereby, there are no chances of the trial being completed in near future. No contraband had been recovered from the petitioner. He has been nominated on the basis of the disclosure statement suffered by the above named co-accused. While the veracity of the disclosure statement against the petitioner will be tested during the course of trial, however, at this stage, it cannot be ignored that no recovery was ever effected from the petitioner. The petitioner was arrested on 05.06.2024. There is nothing on record, at this stage, to connect the petitioner either with the subject crime or to show that he was connected with the co-accused in any manner at the relevant time. Investigation has been completed and challan has been filed. Conclusion of trial would take considerable time. Pendency of other cases against the petitioner cannot be considered to be a ground for denying him benefit of bail in given circumstances. It is also required to be noted that every day spent by an accused in custody provides 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 right of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since settled proposition of law is that detention prior to trial should not become punitive.

Keeping in view the aforesaid facts and circumstances, this Court is of the

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considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case.

9. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

09.12.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No