

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:172684



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CRM-M-45430-2025 (O&M)
Date of decision:10.12.2025

Lakhwinder Singh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Abhijeet Chaudhary, Advocate for the petitioner.

Ms. Himani Arora, DAG, Haryana.

...

Manisha Batra, J. (Oral).

1. Instant one is the second petition as filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking regular bail in case bearing FIR No.211, dated 13.10.2023, registered under Sections 22(C) and 29 of the NDPS Act, at Police Station Guhla, District Kaithal. The previous petition as filed by the petitioner has been dismissed as withdrawn vide order dated 08.04.2025.

2. As per the allegations on 13.10.2023, on the basis of secret information, the petitioner was apprehended and 3250 tablets of Alprazolam were recovered from the conscious possession. He failed to show any permit or license for possessing the same. The recovered intoxicant tablets were taken into custody. The petitioner was formally arrested. On interrogation, he suffered a disclosure statement to the effect that he had purchased the

tablets from one Gurjant Singh. The above named person was nominated as additional accused and was arrested. Investigation now stands completed.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case and a false recovery has been planted upon him. He is in custody over a period of 02 years and 02 months. The trial will take considerable time to conclude since only 01 out of 15 prosecution witnesses has been examined so far. He has clean antecedents. His further incarceration would not serve any useful purpose. It is, therefore, argued that the petitioner deserves to be released on bail.

4. Custody certificate has been filed. Status reply already stands filed. Learned State counsel has vehemently argued that there are specific and serious allegations against the petitioner. Commercial quantity of intoxicant tablets was recovered from his conscious possession. There are chances of his absconding or committing similar offences, if extended benefit of bail. The trial may be expedited. It is, therefore, stressed that the petition does not deserve to be allowed.

5. This Court has heard the rival submissions made by learned counsel for the parties at a considerable length.

6. The petitioner is alleged to have been found in conscious possession of commercial quantity of intoxicating tablets. The allegations prima facie make out a case for commission of subject offences against him. However, he is in custody for a period of over 02 years and 02 months. There are no chances of the conclusion of trial in near future since only one witness has been examined so far. 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 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 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 over a period of 02 years and 02 months, the trial is not likely to be concluded in near future as only 01 out of 15 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 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

10.12.2025

harjeet

(MANISHA BATRA)
JUDGE

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