

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:172282



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CRM-M-46209-2025 (O&M)
Date of decision:09.12.2025

Varinder Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Yashpal Thakur, Advocate for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. The petitioner is seeking indulgence of this Court for grant of regular bail in case arising out of FIR No.62, dated 05.07.2023, registered under Section 22(C) of the NDPS Act, at Police Station Badali Ala Singh, District Fatehgarh Sahib, on the allegations that on 05.07.2023, the petitioner was apprehended by a police party while he was riding a motorbike. He had thrown one plastic bag hanging on the handle of the motorbike on the road on seeing the police party. The same was picked up and on checking, 20 injections of Buprenorphine IP 2 ml. each were found kept in the same. One of those injections had been damaged. The petitioner failed to produce any license or permit for possessing the same. The recovered intoxicant injections were taken into possession by the police officials. The petitioner was formally arrested. Investigation now stands completed and he is facing trial for commission of the aforementioned

offences.

2. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. The mandatory provisions of the NDPS Act had not been complied with at the time of his apprehension and alleged recovery. The recovered injections are actually of even less than small quantity but have been wrongly claimed to be of commercial quantity. The recovered injections had not been sent for chemical analysis report and therefore, there is no material on record to show that they were infact intoxicants. He is in continued detention for a period of over 02 years and 03 months. He is not involved in any other case of similar nature. The trial will take considerable time to conclude. No useful purpose would be served by detaining him in custody anymore. It is, therefore, argued that he deserves to be released on bail.

3. Per contra, learned State counsel has argued that the allegations against the petitioner are serious in nature. He was convicted in a similar case in the past. There are chances of his committing similar offences, if extended benefit of bail. It is, therefore, argued that the petition does not deserve to be allowed.

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

5. The petitioner is alleged to have been found in conscious possession of commercial quantity of intoxicant injections as on 05.07.2023. He is in custody since then. Though, the allegations make out a case for commission of subject offence against him, however, he has remained in custody for a period of about 02 years and 03 months. The trial is still likely

to take time. The well settled proposition of law is 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. The Hon'ble Supreme Court in **Santosh Pawar Vs. State of Chhattishgarh & Anr., Criminal Appeal No.4883/2025**, which is a recently pronounced verdict, had observed that rigours of Section 37 of the 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 **Ismail Khan @ Pathan vs. State of Rajasthan, Criminal Appeal No.4911 of 2025**, the Hon'ble Supreme Court accorded the benefit of bail to a person accused, found in conscious possession of commercial quantity of narcotic substance, in view of the prolonged incarceration for a period of 02 years and 08 months. Similar benefit had been given to an accused in **SLP No.15699-2025 titled as Ebrahim @ Ibrahim SK vs. The State of West Bengal** and in the case of **Pamash Arora vs. UT Chandigarh Criminal, Appeal No.4872 of 2025**. The Apex Court in **Santosh Pawar's case (supra)** had also observed that prolonged incarceration and inordinate delay in conclusion of the trial could be considered while granting bail in such like cases and the bar of Section 37 of the NDPS Act stands diluted in such cases. Similar observations were made by the Hon'ble Supreme Court in **Mohd. Muslim @ Hussain v. State (NCT of Delhi), 2023 SCC OnLine SC 352**, and **Rabi Prakash v. State of Odisha, 2023 SCC Online SC 110**, wherein it was observed that prolonged incarceration militates against the most precious fundamental right guaranteed under Section 21 of the Constitution of India and in such a situation, the constitutional principles must override the statutory embargo

contained under Section 37 of the NDPS Act.

6. On analysis 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 about 02 years and 03 months; the continued detention of the petitioner is not likely to serve any useful purpose; there is nothing on record to show that if released on bail, the petitioner will not participate in the trial or will abscond.

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, 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.

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.

09.12.2025

harjeet

**(MANISHA BATRA)
JUDGE**

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