

2025.PHHC.171758



**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

232

CRM-M-46128-2025

Date of decision: 9<sup>th</sup> December, 2025

Jaspal Kumar

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Harkirat Singh Bhogal, Advocate for the petitioner.  
Mr. Roshandeep Singh, Assistant Advocate General, Punjab.

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**MANISHA BATRA, J (ORAL):-**

The petitioner has been seeking indulgence of this Court by filing this petition for grant of regular bail in case arising out of FIR No. 140 dated 06.09.2022 registered under Section 15 and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') at Police Station Sadar, District Hoshiarpur, on the allegations that on 06.09.2022, co-accused Sahil was apprehended by a police party and recovery of 25 kgs of poppy husk was effected from him. The petitioner was nominated on the basis of disclosure statement of the above named accused and is alleged to be supplier of the recovered contraband. He was arrested on 06.09.2022 and recovery of 25 kgs of poppy husk was effected from him.

2. 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 three years and three months. After dismissal of his previous bail petition, the trial has not proceeded much further, as only three witnesses have been examined so far. The continued detention of the petitioner will not serve any useful purpose.

2025.PHHC.171758



He is on bail in another case registered against him. His prolonged incarceration amounts to substantive change in circumstances and the same has entitled him for seeking concession of bail. Therefore, it is urged that the petition deserves to be allowed.

3. Learned State counsel on the other hand has argued that the previous petition of the petitioner was dismissed by this Court by passing a detailed order. There is no new or substantive change in the circumstances warranting grant of bail to the petitioner now. There are chances of his absconding or committing similar offences if extended benefit of bail. Therefore, it is urged that the petition does not deserve to be allowed.

4. This Court has heard learned counsel for the parties at considerable length.

5. The petitioner is in custody for a period of three years and three months. His previous petition was dismissed about one year and two months back. The trial has not proceeded much further as only three prosecution witnesses have been examined. There is no likelihood of the same to conclude in near future. Hon'ble Supreme Court in ***Rabi Prakash vs. State of Odisha : 2023 Live Law (SC) 533*** has held that the prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act. Similar view has been taken by Hon'ble Supreme Court in ***Ankur Chaudhary vs. State of Madhya Pradesh : 2024 (4) RCR (Criminal) 172***. Reliance can also be placed upon ***Mohd. Muslim @ Hussain vs. State (NCT of Delhi): 2023 AIR(SC) 1648 2023 AIR(SC) 1648***, wherein Hon'ble

2025.PHHC.171758



Supreme Court, while granting concession of regular bail to an accused, from whom commercial quantity of the contraband was allegedly recovered, has held that grant of bail on the ground of undue delay in trial cannot be said to be fettered by Section 37 of the NDPS Act. Reference can also be made to the authority cited as ***Satender Kumar Antil vs. Central Bureau of Investigation and another, 2022(10) SCC 51***, wherein similar observations were made by the Hon'ble Supreme Court. Reliance can also be placed upon the authority cited as ***Bhupender Singh vs. Narcotic Control Bureau : (2022) 2 RCR (Criminal) 706***, wherein a Division Bench of this Court, after considering issue with respect to achieving balance between right to speedy trial guaranteed under Article 21 of the Constitution of India and the rigors enumerated under Section 37 of the NDPS Act, has held that convict/accused is not precluded from claiming bail invoking parameters of Article 21 of the Constitution of India *de-hors* the stringent provisions of Section 37 of the NDPS Act.

6. 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 rigors 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.

7. In the case of ***Ismail Khan @ Pathan vs. State of Rajasthan***

2025 PHHC 171758



***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.

8. 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 ***Pamash Arora vs. UT Chandigarh Criminal Appeal No.4872 of 2025***.

9. Therefore, keeping in view the aforementioned facts and circumstances and also the ratio of law as laid down in the aforecited authorities, this Court is of the 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.

10. 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.

11. Since the main petition has already been disposed of, pending application, if any, is rendered infructuous.

**[MANISHA BATRA]**  
**JUDGE**

**9<sup>th</sup> December, 2025**

Parveen Sharma

1. Whether speaking/ reasoned  
2. Whether reportable

: Yes / No  
: Yes / No