



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-47248-2025

Reserved on: 29th October, 2025

Pronounced on: 31st October, 2025

Renu Kaur @ Reenu Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. P.S. Sekhon, Senior Advocate with
Mr. R.S. Gill, Advocate for the petitioner.

Mr. Roshandeep Singh, Assistant Advocate General, Punjab.

MANISHA BATRA, J :-

The petitioner is seeking indulgence of this Court for grant of regular bail in case arising out of FIR No. 164 dated 28.12.2023 registered under Section 22 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') at Police Station Khuian Sarwar, District Fazilka, on the allegations that on 28.12.2023, she was apprehended on the basis of suspicion and 8000 tablets of Tramadol Hydrochloride were recovered from her. Her previous petition had been dismissed by this Court on 10.01.2025.

2. It is argued by learned counsel for the petitioner that ever since the date of dismissal of her previous petition, she is in custody for a period of more than ten months. Even otherwise, she has remained in custody for a period of one year, nine months and twenty-nine days. There is no progress in the trial and only 01 prosecution witness out of 27 prosecution witnesses



has been examined so far. It is submitted that prolonged incarceration of the petitioner coupled with fact the trial has not proceeded any further are changed circumstances and as such, she is entitled to be extended benefit of bail.

3. Learned State counsel on the other hand, has argued that previous petition of the petitioner having dismissed by passing a detailed order and the on merits, the present petition is not maintainable and does not deserve to be allowed.

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

5. It is well-settled law that the Court, while considering an application for grant of bail, has to keep certain factors in mind 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 the accused absconding or fleeing if released on bail, and reasonable apprehension of the witnesses being threatened, etc. However, at the same time, the period of incarceration is also a relevant factor to be considered while deciding whether bail should be granted to an accused charged with an offence under the provisions of the NDPS Act. The twin conditions under Section 37 of the NDPS Act are to be satisfied. The rigors of Section 37 of the NDPS Act are attracted in this case as the accusations pertain to the recovery of commercial quantity of contraband from the petitioner. However, so far as the maintainability of the petition is



concerned, it may be mentioned that an accused has a right to make successive applications for grant of bail, and it is the duty of the Court, while entertaining such a subsequent bail application, to consider the reasons and grounds on which the earlier bail petition was rejected. The fresh grounds which persuade the Court to take a view different from the one taken in the earlier application are also required to be recorded. Reference in this regard can be made to *Prasad Shrikant Purohit v. State of Maharashtra (2018) 11 SCC 458*, wherein it was so observed.

6. In the instant case, contraband of commercial quantity was recovered from the petitioner. She has remained in custody for a period of one year, ten months and three days. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time, and the bail application can be considered on its own merits even if it is filed repeatedly. It has also been held that every day spent in custody can provide 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 rights of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since the settled principle of law is that detention prior to trial should not become punitive. The petitioner is obviously not required for further investigation. Trial has not progressed and only one out of 27 prosecution witnesses have been examined so far. It is not on account of any act attributed to the petitioner that delay in trial has occurred. It is true that grant of bail on account of delay in trial and long period of incarceration is to be



considered in light of Section 37 of the NDPS Act. Reliance in this regard can be placed on the observations made by the 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 436A which is applicable to offences under the Act. It was also observed that the 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 bail was granted to the accused, who had been incarcerated for a period of almost two to three years and the trial was likely to take considerable time. By observing that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution, and in such a situation, the constitutional principle must override the statutory embargo contained under Section 37 of the NDPS Act. Similar view had 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) : Criminal Appeal No. 943/2023***, decided on 28.03.2023, wherein Hon'ble 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 Act, given the imperative of Section 436-A which is applicable to offences under the NDPS Act too.

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 her 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.

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

[MANISHA BATRA]
JUDGE

31st October, 2025

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*