

2025.PHHC.154191



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

1. CRM-M-51427-2024 (O&M)

Gurlal Singh ...Petitioner

Versus

State of Punjab ...Respondent

2. CRM-M-8667-2025 (O&M)

Lovejit Singh ...Petitioner

Versus

State of Punjab ...Respondent

Date of decision : 10.11.2025

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Umesh Aggarwal, Advocate
for the petitioner in CRM-M-51427-2024.

Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner CRM-M-8667-2025.

Ms. Ramta Chowdhary, DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This common order shall dispose of abovementioned two petitions as they arise out of the same FIR and seek similar relief.
2. Prayer in these petitions is for grant of regular bail to the petitioners in case bearing FIR No. 118 dated 03.07.2023, registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station Lopoke, District Amritsar.
3. Brief facts of the case relevant for the purpose of disposal of this petition are that on 03.07.2023, the petitioners were apprehended by a police party and recovery of 265 grams of heroin was effected from petitioner Gurlal

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Singh, whereas 260 grams of heroin was recovered from petitioner Lovejit Singh. They were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented on 01.12.2023 in the Court and presently, the petitioners are facing trial for commission of aforementioned offences.

4. Learned counsel for the petitioners have argued that they have been falsely implicated in this case. A false recovery was planted upon them. They have clean antecedents. Even otherwise, investigation has been completed long back and *challan* has been presented in Court. However, trial is substantially delayed as despite the fact that *challan* was presented on 01.12.2023 but out of total 16 prosecution witnesses, none has been examined so far and there is no likelihood of the trial being completed in near future. They are in custody since 03.07.2023 i.e. for the last more than 02 years and 04 months. In view of substantial delay in trial, the petitioners are entitled to get benefit of bail. No useful purpose would be served by keeping them in custody anymore. It is, therefore, urged that the petitions deserve to be allowed.

5. Separate status reports have been filed by the respondent-State. Learned Deputy Advocate General, Punjab has argued that keeping in view the gravity of the allegations levelled against the petitioners, they are not entitled to get benefit of bail. Hence, it is urged that the petitions are liable to be dismissed.

6. This Court has heard the submissions made by both the sides.

7. As per the allegations, the petitioners were found to be in possession of 265 grams and 260 grams of heroin, respectively, on

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03.07.2023. Theya are in custody since the date of registration of the FIR. On going through the record, it is apparent that the trial is substantially delayed as no prosecution witness has been examined so far out of total 16 witnesses, despite the fact that challan was presented way back 01.12.2023. The petitioners have been in long incarceration of more than 02 years and 04 months. The trial is obviously delayed and 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 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

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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. In the present case, apparently and evidently, the trial is substantially delayed. 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 petitioners in custody anymore. Accordingly, the present petitions are allowed. The petitioners are ordered to be released on regular bail, subject to their 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 petitioners are found involved in any other subsequent case.

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

9. Let a photocopy of this order be placed on the file of the connected case.

10.11.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No