



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.52454 of 2024 (O&M)

Reserved on: 15.10.2025

Date of Decision: 29.11.2025

Bobby

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Vipul Jindal, Advocate for the petitioner.

Mr. Eklavya Darshi, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 21, 25, 27-A and 29 of Narcotic Drugs & Psychotropic Substances Act, 1985, hereinafter being referred to as 'NDPS Act', the FIR No.32 dated 17.02.2024, has been lodged in Police Station Gharinda Amritsar. The petitioner has been arrested in the above mentioned case as an accused. Since the petitioner is in custody, he has filed the present petition for the benefit of bail. This is first petition for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being in view of report submitted Sub Inspector 'Jagjit Singh'. It was reported by the above named police officer that on 17.02.2024 when he was leading a team of police officials deputed for patrolling duty near village Hardo Rattan the above mentioned team spotted a white colour Activa



PB-02-ER-0594 carrying 2 persons. According to abovesaid police officer, the moment, the occupants of above mentioned vehicle noticed the presence of police party on their way ahead, the driver of the two wheeler suddenly tried to take a u-turn and in his above mentioned endeavour the two-wheeler slipped and they fell down on the ground. As per above named police officer, on the basis of suspicion when they were apprehended they disclosed their names as 'Bobby' and 'Namdev'. It was further reported that 'Bobby' was driving the two wheeler and 'Namdev' was the pillion rider and on search of 'Namdev' two packets containing 'Heroin' weighing 525 and 500 grams, respectively, were recovered.

3 It is the case of the prosecution that on recovery of above mentioned contraband necessary formalities with regard to seizure and sealing of contraband, filing of FIR and arrest of accused were performed and further investigation taken-up.

4 Heard.

It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that he has been falsely implicated in the present case. According to learned counsel for the petitioner, the recovery of contraband was from the conscious possession of pillion rider and not from the petitioner, and that the petitioner has clean antecedents who has never been prosecuted for any offence in the past.

5. According to learned counsel for the petitioner the petitioner has already suffered prolonged incarceration for being in custody for a period of



more than 1 year and 9 months, and that the trial is taking place at a very slow pace as not even a single witness has been examined, so far. While alleging that the prolong incarceration makes the petitioner eligible to claim relaxation in twin conditions enshrined under Section-37 of NDPS Act, the learned counsel for the petitioner has urged for benefit of bail for the petitioner. The learned counsel for the petitioner in support of his argument has referred to the observations made by the Hon'ble Supreme Court of India in the case of Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal, Special Leave to Appeal (Crl.) Nos. 12788-2023.

6. Per contra, the learned State counsel has argued that in the present case the quantity of contraband recovered from the possession of petitioner is commercial quantity, and that without satisfying the twin conditions enshrined under Section 37 of NDPS Act, the benefit of bail cannot be afforded to the petitioner. According to learned State counsel merely on the ground of long incarceration the conditions under Section 37 of NDPS Act cannot be relaxed. In this regard the learned State counsel has placed reliance upon the principles of law laid down by the Hon'ble Supreme Court of India in the cases of Union of India Vs. Rattan Mallik @ Habul, 2009 (2) Apex Court Judgments (SC) 267, Sheru Vs. Narcotics Control Bureau, 2020 (4), RCR (Criminal) 242, Jagga Singh Vs. State of Punjab, CRM-M-14952-2022, and Manpreet Singh @ Kaku Vs. State of Punjab, CRM-M-40999-2022.

7. In addition to above the learned State counsel has also relied upon the principles of law laid down by the Hon'ble Supreme Court of India in the case of *The State (NCT of Delhi) Narcotics Control Bureau v. Lokesh Chadha*,



(2021) 5 SCC 724, wherein it has been held that no person accused for offences involving a commercial quantity shall be released on bail, where the public prosecutor opposes the application, unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

8. The record has been perused carefully.

9. As far as the principles governing the benefit of bail in a case related to NDPS Act are concerned, the principles of law laid down by the Hon'ble Supreme Court in the case of 'Mohd. Muslim @ Hussain v. State (NCT of Delhi)', (2023) 18 Supreme Court Cases 166 are relevant, wherein the Hon'ble Supreme Court has 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 which is applicable to offences under the Act.

10. In this regard it is also relevant to mention here that the Hon'ble Supreme Court of India in the case of Manmandal and Another v. State of West Bengal, Special Leave Petition (Criminal) No.8656 of 2023 decided on 14.09.2023 and Rabi Prakash v. State of Odisha, 2023 SCC Online SC 1109, extended the benefit of bail to the accused, who had been incarcerated for a period of almost 2-3 years and the trial was likely to take considerable time. The above-mentioned benefit has been given 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 principles must override the statutory embargo contained under



Section-37 of the NDPS Act.

11. In addition to above, in a recently pronounced verdict in the case of Santosh Pawar Vs. State of Chhattishgarh & Anr.' Criminal Appeal No.4883/2025, the Hon'ble Supreme Court observed 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.

12. 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.

13. In the case of Ismail Khan @ Pathan vs. State of Rajasthan Crminal 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.

14. 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.

15. If the facts and circumstances of the present case are analyzed in the light of above-mentioned principles of law, it transpires that:-

- i) that the petitioner has already suffered prolonged incarceration for a period of more than 1 year and 09 months;
- ii) that the trial is progressing at a very slow pace as not even a single witness has been examined so far;
- iii) that there are very strong points raising fingers against the manner in which the investigation has been conducted, as despite previous information the compliance of Section 42 of NDPS Act was not made;
- iv) that the trial is not likely to be concluded in near future;
- v) that nothing is left to be recovered from the possession of petitioner;
- vi) that detention of petitioner in judicial lock-up is not likely to serve any purpose;
- vii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and
- viii) that there is nothing on record to show that if released on bail,



the petitioner will not co-operate/participate in the trial.

16. In the present case, the principles of law laid down by the Hon'ble Supreme Court in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, are also relevant, wherein it has been observed that *"a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case"*.

17. Recently, in the case of Tapas Kumar Palit Vs. State of Chhattisgarh', 2025 SCC Online SC 322, the Hon'ble Supreme Court of India



has observed that *“if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”*. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that *“delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”*.

18. Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon’ble Apex court in “Balwinder Singh versus State of Punjab and Another 2024 SCC Online SC 4354.

19. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

20. Accordingly, without commenting anything on the merits of the case, the present petition is hereby ***allowed***. The petitioner is hereby ordered to be released on bail on his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the following conditions:-



- (i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.
- (ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- (iii) that the petitioner shall not leave India without prior permission of the trial Court.

21. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

(SURYA PARTAP SINGH)
JUDGE

29.11.2025
Manoj Bhutani

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