

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:158184



107

CRM-M-63748-2024 (O&M)
Date of decision:14.11.2025

Nirmal Singh @ Nimma

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amit Arora, Advocate for the petitioner.

Ms. Ramta Chowdhary, DAG, 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.411, dated 22.09.2023, registered under Sections 21(c) and 29 of the NDPS Act, at Police Station Goindwal Sahib, District Tarn Taran.

2. As per the allegations, on 22.09.2023, the petitioner along with co-accused was intercepted by the police when both of them were riding on a motorbike and tried to flee on seeing them. The petitioner had taken out a polythene from the pocket of his trouser and tried to throw the same but was apprehended. On checking, the polythene was found to be containing 265 grams of heroin. The petitioner, on interrogation, suffered a disclosure statement that he along with co-accused used to buy heroin and to further sell the same. Investigation now stands completed and the petitioner along

with co-accused is facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. A false recovery has been planted upon him. He is in custody for a period of more than 02 years, 01 month and 20 days. Trial will take considerable time to conclude. His further detention would not serve any useful purpose. It is, therefore, urged that he deserves to be extended benefit of bail.

4. Per contra, learned State counsel has argued that there are serious allegations against the petitioner. Rigors of Section 37 of the NDPS Act are attracted in this case. He has criminal antecedents. There are chances of his committing similar offences, if extended benefit of bail. It is, therefore, urged that the petition does not deserve to be allowed.

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

6. 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 as well as from the co-accused.

7. In the instant case, contraband of commercial quantity was recovered from him. The petitioner has remained in custody for a period of more than 02 years, 01 month and 20 days. 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. Only 4 out of 12 witnesses have been examined by the prosecution till now. Obviously, the petitioner is not required for further investigation. It is true 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. 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 ***Rabi 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.

8. 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.

9. 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.

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

14.11.2025

harjeet

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No