



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

237

CRM-M-66147-2025 (O&M)
Date of decision : 01.12.2025

Ajay Kumar @Laddi @Latti

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Pulkit and Ms. Pragti Kumari, Advocates for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J. (oral)

1. For the commission of offence punishable under Section 22 of 'Narcotic Drugs and Psychotropic Substances Act', hereinafter being referred to as 'NDPS Act' and Section 411 of Indian Penal Code, the FIR No.53 dated 01.09.2016 has been lodged in Police Station Rawalpindi, District Kapurthala. The petitioner is being prosecuted for the commission of abovementioned offence and he has been arrested. The petitioner is in custody and, therefore, craving for bail. This is first petition for bail filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being in view of the report of ASI Lakhwinder Singh, who reported that on 01.09.2016 when he was leading a team of police



officials deputed for patrolling duty at about 09:40 am, he spotted a person carrying a plastic bag coming from Village Palahi side on a motorcycle bearing registration No.PB08-BX-8473. According to above-named police officer, when on the basis of suspicion the abovementioned person was intercepted and the contents of bag were checked, it was found that in the abovementioned bag he was carrying 135 gms of narcotic substance, containing salt diphenoxylate hydrochloride.

3. It is the case of the prosecution that on recovery of abovementioned narcotic powder, necessary formalities with regard to seizure & sealing of contraband, lodging of FIR, and arrest of the accused were performed, and further investigation taken up.

4. **Notice of motion.**

5. Since advance notice has already been served upon the State, Mr. I.P.S. Sabharwal, DAG Punjab accepts notice on behalf of respondent-State, and waives service. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record. However, no formal reply has been filed by the State and the learned State counsel has opted to orally oppose the present petition.

6. Heard.

7. It has been contended on behalf of petitioner that the petitioner is innocent, who has been falsely implicated in the present case, and that in the present case, the petitioner has already suffered a prolonged incarceration for being in custody for a period of more than 06 years. While claiming that the trial of the present case is not likely to be concluded in near



future, as despite lapse of such a long period out of 12 prosecution witnesses only 08 have been examined so far, the petitioner has craved for the benefit of bail.

8. *Per contra*, the learned State Counsel has argued that in the present case, the recovery of contraband from the possession of petitioner comes within the ambit of commercial quantity, and therefore, without satisfying the twin conditions enshrined under Section-37 of NDPS Act, the benefit of bail cannot be afforded to the petitioner.

9. In support of his arguments, the learned State Counsel has referred to 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.

10. In addition to above, the learned State Counsel has also argued that the petitioner is a person, who was earlier afforded the benefit of interim bail, but he misused the same, and therefore, also on account of abovementioned misconduct he is ineligible for the benefit of bail.

11. The record has been perused carefully.

12. 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 SCC OnLine SC 352***' 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.

13. 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.

14. 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.

15. 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.

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

17. 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***.

18. 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 06 years;
- (ii) that the prosecution has been successful to examine only 08 prosecution witnesses out of 12, and thus, there is every likelihood that the trial is not going to conclude in near future;
- (iii) that nothing is left to be recovered from the possession of petitioner;
- (iv) that detention of petitioner in judicial lock up is not likely to serve any purpose;
- (v) 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
- (vi) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

19. 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(2) R.C.R. (Criminal) 131, 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”.

20. The principles laid down by the Hon’ble the Supreme Court of India in the case of **Satender Kumar Antil (supra)**, are also relevant in this case. In the abovementioned case, it has been observed that “*the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice*”.

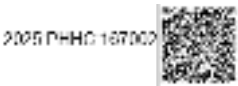


21. Recently, in the case of '*Tapas Kumar Palit Vs. State of Chhattisgarh*', 2025 SCC Online SC 322, the Hon'ble Supreme Court of India has observed that "*if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could 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*".

22. 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.

23. 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.

24. 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.

25. 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

01.12.2025
Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No