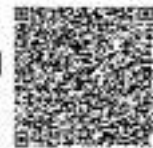


2025.PHHC.178081



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

231

CRM-M-71554-2025 (O&M)

Date of decision : 23.12.2025

Dharminder Singh @ Dharminder**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Harpal Singh Sandhu, Advocate
for the petitioner.

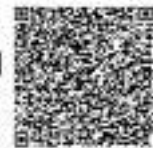
Mr. Durgesh Garg, AAG, Punjab.

MANISHA BATRA, J.(Oral)

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in case bearing FIR No. 07 dated 15.01.2024, registered under Sections 21, 29 and 21(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) and Section 25 of the Arms Act, 1959 at Police Station STF Sohana, Sector 79, SAS Nagar.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 15.01.2024, the petitioner along with co-accused Davinder Singh @ Lovepreet Singh and Iqbal Singh @ Bunty was apprehended by a police party on the basis of a secret information, while they were riding a motorcycle. On conducting their search, recovery of 515 grams of heroin was effected from co-accused Davinder Singh @ Lovepreet Singh, whereas 265 grams of heroin and a .32 bore pistol with two live cartridges were recovered from co-accused Iqbal Singh @ Bunty. On search of the petitioner, recovery of 290 grams of heroin was effected. All of them were formally arrested at the spot. After completion of

2025.PHHC.178081



necessary investigation and usual formalities, *challan* under Section 193 of BNSS was presented on 11.07.2024 in the Court and presently, the petitioner along with the 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. He is in custody since 15.01.2024. The trial will take considerable time to conclude. His further incarceration would not serve any useful purpose. Only 01 out of 24 witnesses has been examined so far. His involvement in one more case of similar nature cannot be made a ground for denying him the benefit of bail in the given circumstances. He has permanent abode. There are no chances of his absconding. Co-accused Davinder Singh @ Lovepreet Singh and Iqbal Singh @ Bunty have already been granted concession of regular bail by this Court. On parity, the petitioner too deserves to be given the same benefit. It is, therefore, argued that he deserves to be released on bail.

4. *Per contra*, learned Assistant Advocate General, Punjab has argued that taking into consideration the gravity of the allegations as levelled against the petitioner as well as his criminal antecedents, he does not deserve to be extended benefit of bail.

5. This Court has considered the rival submissions.

6. The petitioner along with above named co-accused is alleged to have been found in conscious possession of commercial quantity of contraband as on 15.01.2024. The allegations *prima facie* make out a case for commission of subject offences against them. However, it is apparent from the record that there are no chances of conclusion of the trial in near future and it will take considerable time. The petitioner has been in custody for a long time. Similarly

2025.PHHC.178081



situated co-accused have already been granted concession of regular bail by this Court. It is well settled proposition of law 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 upon the observations made by 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 436-A of Cr.P.C. which is applicable to offence under the Act. It was also observed that 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 the Hon'ble Supreme Court had extended benefit of bail to the accused who had been incarcerated for a long period by observing that prolonged incarceration militated 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.

7. Reliance can also be placed upon ***Santosh Pawar Vs. State of Chhattishgarh & Anr.***, Criminal Appeal No.4883/2025, which is a recently pronounced verdict of Hon'ble Supreme Court observing 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

2025.PHHC.178081



of trial. In the abovementioned 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. 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.

8. In the case of ***Ismail Khan @ Pathan v. 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. The similar benefit has been taken in another appeal i.e. SLP No.15699-2025 titled as ***Ebrahim @ Ibrahim SK v. The State of West Bengal*** and in the case of ***Pamesh Arora vs. UT Chandigarh*** Criminal Appeal No.4872 of 2025.

9. On analyzing the peculiar facts and circumstances of the present case in the light of the aforementioned principles of law, it transpires that the petitioner has suffered prolonged incarceration for a period of about two years, the trial is not likely to be concluded in near future as only 01 out of 24 witnesses has been examined; the continued detention of the petitioner is not likely to serve any

2025.PHHC.178081



fruitful purpose; there is nothing on record to show that if released on bail, the petitioner will not participate in the trial or will abscond.

10. In view of the above discussion, this Court is of the considered 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, and furnish details of his cell phone and Aadhaar card, and shall not change his mobile number(s) during the pendency of the trial.

11. 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.

23.12.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No