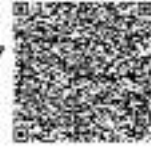


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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

CRM-M-5168-2026

Date of decision: 7th April, 2026

Sonu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Jashandeep Singh Sandhu, Advocate for the petitioner.

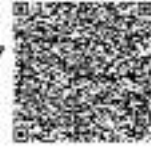
Mr. Roshandeep Singh, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

The instant one is the second petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 85 dated 18.08.2024 registered under Sections 21 and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, '*NDPS Act*') (Section 29 of NDPS Act and Sections 25 and 27 of Arms Act were added later on) at Police Station Kulgarhi District Ferozepur. His previous petition bearing CRM-M-No. 35806-2025 had been dismissed as withdrawn vide order dated 12.11.2025.

2. The aforementioned FIR was registered on the allegations that on 18.08.2024, a secret information was received to the effect that the petitioner and co-accused Vishal @ Shelly, who were brothers, were engaged in the business of smuggling of heroin and that they had taken a house on rent in

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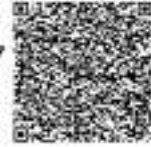


village Nawan Purba and were coming from there in a car while carrying contraband and could be apprehended. Believing the secret information to be true, a raiding party was immediately formed which reached at the informed place and apprehended the petitioner and the co-accused. The recovery of 01 kg 05 grams of *heroin* and cash amount of Rs. 12,90,000/- was effected from a bag which was carried by accused Vishal @ Shelly. On conducting personal search of the petitioner, one .315 bore pistol and 07 live cartridges were recovered. The recovered contraband and articles were taken into possession by the police. The accused Vishal suffered disclosure statement on the basis of which Sukhwant Singh was nominated as an accused. The vehicle recovered from the petitioner and co-accused was found to be registered in the name of one Ravi Kumar. Investigation now stands completed.

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 has been in custody for a period of over 01 year and 07 months. The trial will take considerable time to conclude. His further incarceration would not serve any useful purpose. His involvement in other cases cannot be considered to be a reason for denying benefit of bail to him. It is, therefore, argued that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be released on bail. There are chances of his absconding or committing similar offences, if extended benefit of bail. Therefore, it is stressed that the petition does not deserve to be allowed.

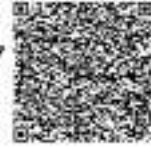
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5. This Court has heard the rival submissions made by learned counsel for the parties at considerable length.

6. The petitioner along with the co-accused is alleged to be found in conscious possession of commercial quantity of the contraband, illicit weapon, ammunition as well as cash amount of Rs. 12,90,000/-. It is a matter of evidence as to whether, the recovered money was drug money or not? Though the allegations *prima facie* make out a case for commission of the aforementioned offences as against the petitioner, however, he has been in custody for a period of more than 01 year, 07 months and 18 days. Only 03 prosecution witnesses have been examined so far. Therefore, it is apparent that the chances of conclusion of trial in near future are bleak. This factor, in the opinion of this Court, is a ground to move for bail afresh. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time, and the bail application can be considered on its own merits even if it is filed repeatedly. It has also been held that every day spent in custody can provide a new cause of action for filing a bail application under certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the rights of the accused with the requirements of the criminal justice system. 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. Trial is likely to take time to conclude as most of the prosecution witnesses are yet to be examined. 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

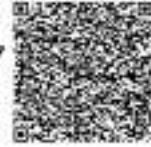
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considered in the light of Section 37 of the NDPS Act. Reliance in this regard can be placed upon the observations made by Hon'ble Apex Court in ***Mohd. Muslim @ Hussain v. State (NCT of Delhi), 2023 SCC OnLine SC 352***, wherein it was held that 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 of trial. In the above-mentioned case the Hon'ble

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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.

8. 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.

9. 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.

10. The similar benefit has been extended 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***.

11. 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 over a period of 01 year, 07 months, and 18 days, the trial is not likely to be concluded in near future

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as most of the prosecution witnesses are yet to be examined; the continued detention of the petitioner is not likely to serve any 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.

12. 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 is exempted by the trial Court. He shall surrender his passport, if any, furnish details of his cell phone and Aadhar card, and shall not change his mobile number(s) during the pendency of the trial.

13. 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.

14. Since the main petition has already been decided, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

7th April, 2026
Parveen Sharma

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |