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

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CRM-M-5730-2026 (O&M)
Date of decision : 17.04.2026

Bhim Kumari and another**...Petitioners**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Rohit Kumar, Advocate
for the petitioners.

Mr. Roshandeep Singh, AAG, Punjab.

MANISHA BATRA, J.(Oral)

1. The instant one is the second petition that has been filed by the petitioners under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail in case bearing FIR No. 130 dated 19.04.2024, registered under Sections 20 and 29 of the NDPS Act, 1985 at Police Station Zirakpur, District SAS Nagar. Their previous petitions were dismissed by this Court 29.07.2025 and 28.03.2025, respectively.

2. The petitioners have been facing trial in the aforementioned case on the allegations that on 19.04.2024, they along with co-accused Bahadur Gharti were apprehended by a police party and recovery of 2.5 kgs. of Charas was effected from a bag which was being carried by co-accused Bahadur Gharti, whereas recovery of 01 kg. of Charas each was effected from the petitioners.

3. It is argued by learned counsel for the petitioners that they have been falsely implicated in this case and a false recovery has been planted upon them. They are in custody for a period of about two years. There is prolonged

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pendency of the trial in the present case, and there is no likelihood of its conclusion in the near future, particularly as none out of twelve prosecution witnesses has been examined so far. The extended period of their incarceration is a sufficient and new ground to seek concession of bail. Their continued detention would not serve any useful purpose. With these broad submissions, it is urged that the petition deserves to be allowed.

4. Status report and custody certificates have been filed by respondent-State. It is argued by learned State counsel that taking into consideration the gravity of the allegations levelled against the petitioners as well as the fact that commercial quantity of the contraband was recovered from them, they do not deserve to be released on bail. Therefore, it is stressed that the petition does not deserve to be allowed.

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

6. The petitioners are alleged to be found in conscious possession of commercial quantity of contraband on 19.04.2024. They are in custody since that very day and have spent a period of about two years in custody. Obviously the trial is likely to take time to conclude. 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

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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. 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. 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***

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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 Supreme Court 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, 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 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***.

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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 petitioners have suffered prolonged incarceration, the trial is not likely to be concluded in near future as no prosecution witness has been examined so far, the continued detention of the petitioners is not likely to serve any fruitful purpose; there is nothing on record to show that if released on bail, the petitioners 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 petitioners at this stage. Accordingly, the petition is allowed and the petitioners are ordered to be released on bail on their furnishing personal as well as surety bonds to the satisfaction of the learned trial Court, and subject to the condition that they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case. They shall appear before the learned trial Court on each and every date of hearing except when their presence is exempted by the trial Court.

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.

17.04.2026*Waseem R. Ansari***(MANISHA BATRA)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*