



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223

CRM-M No.6042 of 2026 (O&M)
Date of Decision: 20.04.2026

Deepak Kumar @ Nepali

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Jagjit Singh Sarao, Advocate for the petitioner.
(through hybrid mode).

Mr. Rohit Bansal, Sr. DAG Punjab.

SURYA PARTAP SINGH, J. (Oral):

This is the first petition for bail, filed by the petitioner under Section 483 of the 'Bharatiya Nagarik Suraksha Sanhita 2023'. This petition pertains to a case arising out of FIR No.39 dated 26.03.2025, for the commission of offence punishable under Section 22 [Section 29 of NDPS Act was added later on] of Narcotic Drugs & Psychotropic Substances Act, 1985, Police Station Samana, District Patiala.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being at the instance of 'ASI Sarabjit Singh'. According to above named police officer on 26.03.2025 when he was leading a team of police officials deputed for patrolling duty, at about 3.30 P.M, a reliable source gave him an information that 'Deepak Kumar @ Nepali' (the petitioner herein) and 'Mandeep Singh @ Dev', were involved in the activities of selling intoxicating tablets, and that they were having intoxicating tablets and present



under a shed in Grain Market of village Mial Kalan. According to above named police officer in view of above mentioned information he went to the spot, apprehended 'Mandeep' and 'Deepak', and found that they were in possession of 50 intoxicating tablets make Etizolam (total weight 9 gram).

3. It is the case of the prosecution that on recovery of above mentioned contraband requisite formalities with regard to seizure and sealing of contraband, slapping of FIR and formal arrest of petitioner were completed and further investigation taken up.

4. The learned State Counsel has filed custody certificate of the petitioner and status report in the form of affidavit duly sworn by the Deputy Superintendent of Police, Sub Division Samana, District Patiala. The same be taken on record.

5. Heard.

6. It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. According to learned counsel for the petitioner in the present case the petitioner was illegally picked up by the police on 24.03.2025, and subsequent thereto, by concocting/cooking-up a false story the petitioner has been falsely implicated in the present case. As per learned counsel for the petitioner the incident of illegal apprehension of petitioner was duly recorded in the CCTV footage.

7 In addition to above, the learned counsel for the petitioner has also contended that otherwise also the investigation in this case is already complete and the petitioner has already served prolonged incarceration for a period of more than one year and twenty two days. According to learned counsel for the

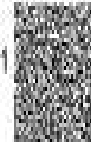


petitioner the trial is not likely to be concluded in near future, and therefore, the petitioner is entitled for the benefit of bail.

8. The learned State counsel has controverted the above mentioned arguments. According to learned State counsel in the present case *firstly*, the petitioner does not have clean antecedents and *secondly*, by twisting the fact a false story has been set-up by the petitioner, with regard to his detention by the police on 24.03.2025. According to learned State counsel, in fact, on the basis of statement given by the complainant who was victim of snatching, the petitioner was apprehended and got identified from the above said victim. As per learned State counsel when the above said victim did not identify the petitioner, as the persons responsible for snatching of his mobile phone, without any delay the petitioner was released.

9 The learned State counsel has further contended that the petitioner does not have clean antecedents and for two cases under NDPS Act he has already been convicted. According to learned State counsel the recovery of contraband in the instant case comes within the ambit of commercial quantity, and therefore, unless rigors of Section-37 of NDPS Act are complied with, the benefit of bail should not be accorded to the petitioner.

10 In response to abovementioned arguments, the learned State counsel has clarified that in both cases under NDPS Act the petitioner was sentenced to undergo imprisonment for a short period only, which has already been undergone by the petitioner, and that in the present case the illegal detention of the petitioner by the police officer shatters the credibility of the prosecution story, and therefore, the arguments addressed by the learned State



counsel has got no force.

11 The record has been perused carefully.

12. Since the recovery of contraband in the case in hand comes within the ambit of commercial quantity, the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Mohd. Muslim @ Hussain v. State' (NCT of Delhi), 2023 SCC OnLine SC 352 are relevant. In the abovementioned case, the Hon'ble Supreme Court of India 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 of India observed that rigors of

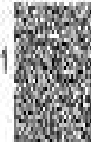


Section 37 of NDPS Act will not be a bar for considering the case of an accused for bail as it comes with a condition that the prosecution would press for an early completion of trial. In the above-mentioned case the Hon'ble Supreme Court of India held that appellant who was being prosecuted for being 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 Hon'ble Supreme Court of India expressed the opinion that Section 436A of the Criminal Procedure Code, 1973 [which requires inter alia the accused to be enlarged on bail if the trial is not concluded within specified periods] would apply in such cases.

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 given 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. In the case of 'Hasanujjaman & Ors. V/s The State of West Bengal' SLP (Crl.) No.3221 of 2023, the benefit of bail has been accorded by the Hon'ble Supreme Court of India to an accused, who was found in the possession of 115 bottles of phensedyl, by observing that:-

- a) the petitioner was in custody for a period of one year and three months;
- b) the investigation in that case was complete and charge-sheet had been filed, but charges were yet to be framed;
- c) the conclusion of trial would take some time; and
- d) the petitioner had no criminal antecedents.

In view of abovementioned prevailing factors, it has been observed by the Hon'ble Supreme Court of India that there is substantial compliance of Section-37 of NDPS Act.

19. Similarly, in the case of 'Nandlal Mondal @Abhay Mondal V/s The State of West Bengal' SLP(Crl) No.12788/2023, the Hon'ble Supreme Court of India afforded the benefit of bail to the accused, who was found in possession of 10,000 ml of codeine phosphate, and was in custody for a period of one and a half year, by considering that conclusion of trial would take long time.

20. 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 is already in custody for a period of more than one year and twenty two days;
- ii) that there are very specific allegations against the police officer that the petitioner was picked up by the police two day's before



the alleged recovery. As per petitioner he was illegally detained by the police for two day's, and thereafter, implicated in the present case. On the other hand, as per police officer on the basis of suspicion the petitioner was arrested on 24.03.2025 and on the same day he was released.

If the stand taken by the petitioner and State are taken into consideration, it transpires that the story set-out by the prosecution is not worth convincing. The prosecution has failed to explain why for the purpose of identification the petitioner was picked up from the shop and then taken to the complainant for identification, instead of taking the complainant to the shop, where the petitioner was present and could be identified.

Thus, it can safely be observed that the story set-up by the petitioner is more convincing than the story projected by the prosecution;

- iii) that the investigation in this case is already complete, and therefore, nothing has been left to be recovered from the possession of petitioner;
- iv) that the trial of this case is not likely to be concluded in near future;
- v) that the detention of petitioner in judicial lock-up is not likely to serve any purpose;



- vi) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- vii) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

21. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, are 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”.

22. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil v. Central Bureau of Investigation’ (2022) 10 SCC 51 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”.

23. 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”.

24. 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 an undertrial prisoner, as mandated by Hon’ble Apex court in ‘Balwinder Singh versus State of Punjab and another’ 2024 SCC Online SC 4354.

25. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession of bail, and that the present petition deserves to be allowed.

26. 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 furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However, the abovesaid benefit shall be subject to 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 from disclosing 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 trial Court.

27. It is, however, made clear that any observation made hereinabove is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(SURYA PARTAP SINGH)
JUDGE

20.04.2026
Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No