



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

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CRM-M No.7635 of 2025 (O&M)

Date of Decision: 15.01.2026

Jawinder Singh @ Jassa**.....Petitioner****Versus****State of Punjab****..... Respondent****CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH****Present:** Mr. Jashandeep Singh Sandhu, Advocate for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 21 of Narcotic Drugs & Psychotropic Substances Act, 1985, hereinafter being referred to as 'NDPS Act', the FIR No.82 dated 06.06.2023, has been lodged in Police Station Doraha, District Ludhiana. The petitioner has been arrested in the above mentioned case as an accused. Since the petitioner is in custody, he has filed the present petition for the benefit of bail. This is 2nd petition for bail filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Briefly stating, the facts emerging from record are that the FIR of this case came into being at the instance of 'Sub Inspector Vijay Kumar', who had reported that on 06.06.2023 at about 07.50 P.M. when he was heading a police party deputed for patrolling duty and vehicle checking, on the basis of suspicion a Fortuner vehicle bearing registration No.DL-3CBD-6189 was



intercepted. As per above named police officer after adopting the due procedure when the above mentioned vehicle was checked it was found that near the gear liver a black kit was kept and in the above mentioned kit there was a transparent envelope containing 600 grams of heroin.

3. As per prosecution in view of above mentioned recovery formal FIR of this case was lodged and the investigation taken. According to prosecution, on completion of investigation the petitioner and his co-accused were sent to the Court to face trial.

4. Notice of motion.

5. Since advance notice has already been served, Mr. Rohit Bansal, Sr. DAG, Punjab, appears on behalf of respondent-State. Hence, service of notice upon the State is hereby dispensed with.

6. Learned State Counsel has filed custody certificate of the petitioner. The same be taken on record.

7. Heard.

8. It has been contended on behalf of the petitioner that petitioner has already suffered incarceration for being in custody for a period of more than 2 years and 07 months, and that the trial is taking place at a very slow pace, as in the last more than 2 years and 7 months out of 15 only 4 prosecution witnesses have been examined. It has been pointedly argued by learned counsel for the petitioner that on last 12 consecutive occasions not even a single prosecution witness has been completely examined by the prosecution, and thus, the trial is not likely to be concluded in near future.

According to learned counsel for the petitioner the right of speedy trial of the



petitioner is being infringed with impunity in the present case, and therefore, despite dismissal of former petition for bail on 01.10.2024, the second petition for regular bail is maintainable.

9. Per contra, the learned State counsel has argued that there is no change of circumstance from the date of dismissal of former bail petition and that the petitioner has criminal antecedents as subsequent to filing of present case he has been prosecuted in another case under NDPS Act. According to learned State counsel, since the recovered contraband comes within the ambit of commercial quantity without satisfying the twin conditions enshrined under Section 37 of NDPS Act, the benefit of bail cannot be afforded to the petitioner.

10. In support of his arguments, the learned State counsel has also relied upon 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.

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) 18 Supreme Court Cases 166 are also relevant in the



present case, 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 is already in custody for a period of more than 02 years 07 months;
- ii) that trial is taking place at a very slow pace as out of 15 witnesses only 4 witnesses have been examined;
- iii) that there is no progress in trial in the last 1 year when the case



was fixed for prosecution evidence on 12 occasions;

- iv) that the trial is not likely to be concluded in near future;
- v) that nothing is left to be recovered from the possession of petitioner;
- vi) that detention of petitioner in judicial lock-up is not likely to serve any purpose;
- vii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- viii) 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) 3 SCC 22, 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. 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”*.

21. 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.

22. 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.

23. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**, and subject to the conditions mentioned below, the petitioner is ordered to be released on bail on his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court:-

- 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 the trial Court.

(SURYA PARTAP SINGH)
JUDGE

15.01.2026
Manoj Bhutani

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