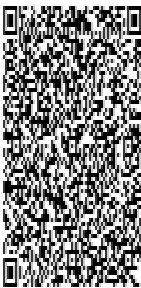


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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.7864 of 2026

Amarjit Singh @ Gandhi ... Petitioner

Versus

State of Punjab ... Respondent

1.	The date when the judgment is reserved	07.04.2026
2.	The date when the judgment is pronounced	09.04.2026
3.	The date when the judgment is uploaded on the website	09.04.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

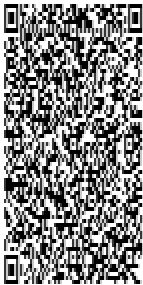
Present: Mr. Lakshay Bector, Advocate,
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J.

1. The present petition has been filed by the petitioner under
Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short

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“BNSS”) seeking regular bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
149	16.11.2024	Sarabha Nagar, District Police Commissionerate Ludhiana	18 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’)

2. As per the allegations, on 16.11.2024, a secret information was received to the effect that the petitioner was engaged in the business of sale of opium and gambling and was in possession of huge quantity of opium and drug money and could be apprehended, if raid was conducted in his house. Believing the secret information to be true, a raiding party was immediately formed which reached at the house of the petitioner and apprehended him. He disclosed that opium was kept in a wooden cupboard in the upper portion of his house and 02 kg 510 grams of the same was recovered from the said wooden cupboard, which was taken into custody. The petitioner suffered disclosure statement and also got recovered drug money of Rs.22,41,510/-, gold ornaments and gambling instruments. That apart, four keypad mobile phones were also got recovered from him. He was formally arrested. On his disclosure, the co-accused Bablu was nominated as such and was arrested. Investigation now stands concluded.

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 is in custody since long. The trial will take considerable time to conclude. No useful purpose would be served by detaining him in custody

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any more. He is not involved in any other case of similar nature and is on bail in another case registered under Section 420 of IPC against him. The recovered contraband is marginally above the commercial quantity. With these broad submissions, it is urged that he deserves to be released on bail..

4. Per contra, learned Assistant Advocate General, Punjab while replying upon the status report has argued that the allegations against the petitioner are serious in nature. Commercial quantity of contraband and huge amount of drug money was recovered from him. His antecedents are not clean. The rigors of Section 37 of NDPS Act are attracted in this case. It is, therefore, argued that the petition does not deserve to be allowed.

5. This Court has considered the rival submissions.

6. The petitioner is alleged to have been found in possession of 2 kgs 510 grams of opium which is marginally above the commercial quantity. He is in custody for a period of about 01 year, 04 months and 18 days. Only 01 out of 21 prosecution witnesses, has been examined so far and hence, it is obvious that there are no chances of conclusion of trial in near future. 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

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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*, wherein 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

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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***.

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 a period of about 01 year, 04 months and 18 days; the trial is not likely to be concluded in near future

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as only 01 out of 21 prosecution witness has been examined; the continued detention of the petitioner is not likely to serve any fruitful purpose and that there is nothing on record to show that if released on bail, the petitioner will not participate in the trial or will abscond. In view of this discussion, this Court is of the opinion that a case is made out for grant of bail to the petitioner. 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 learned trial Court/CJM/Duty Magistrate concerned and subject to the condition that 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, furnish details of his cell phone and Aadhaar card, and shall not change his mobile number(s) during the pendency of the trial.

12. 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.

09.04.2026
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No