

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

2026:PHHC:074711



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CRM-M-13001-2026 (O&amp;M)

Date of decision:12.05.2026

Pawan Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Ankit Kharbanda, Advocate for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

...

**Manisha Batra, J. (Oral).**

1. The instant one is the second petition for grant of regular bail as filed by the petitioner in case arising out of FIR No.0164, dated 10.08.2024, registered under Sections 22 and 29 of the NDPS Act (offence under Section 29 of the NDPS Act was added lateron), at Police Station Kamboj, District Amritsar Rural. The previous petition as filed by him bearing CRM-M-65441-2024 had been dismissed vide order dated 06.03.2025.

2. As per the allegations, on 10.08.2024, the petitioner was apprehended and on conducting his search, 280 loose unlabelled intoxicant tablets were recovered from his conscious possession, which were taken into custody by the police. The petitioner was formally arrested. 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. Rigors of Section 37 of the NDPS Act are not attracted against him as the recovery is of non-commercial quantity. The trial will take considerable time to conclude as only 03 out of 11 prosecution witnesses have been examined so far. No useful purpose would be served by detaining him in custody anymore. Each day spent by him in custody has furnished a new ground to him to seek concession of bail afresh. It is, therefore, argued that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

4. Per contra, learned State counsel while relying upon the status report has argued that keeping in view the gravity of the allegations as levelled against the petitioner and his antecedents, he does not deserve to be extended the benefit of bail.

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

6. So far as the question of maintainability of the petition is concerned, it may be mentioned that an accused has a right to make successive applications for grant of bail, and it is the duty of the Court, while entertaining such a subsequent bail application, to consider the reasons and grounds on which the earlier bail petition was rejected. The fresh grounds which persuade the Court to take a view different from the one taken in the earlier application are also required to be recorded. Reference in this regard can be made to ***Prasad Shrikant Purohit v. State of Maharashtra (2018) 11 SCC 458***, wherein it was so observed.

7. In the instant case, the petitioner is alleged to have been found

in conscious possession of 280 loose unlabeled intoxicant tablets on 10.08.2024. He is in custody for a period of about 01 year, 08 months and 28 days. Though, the allegations *prima facie* make out a case for commission of subject offences against the petitioner, however, on a perusal of the record, it is apparent that there are no chances of conclusion of the trial in near future and it will take considerable time as a substantive number of the prosecution witnesses are yet to be examined. The petitioner has remained in custody since long. 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 of India and in such a situation, the constitutional principles must override the statutory embargo contained under Section 37 of the NDPS Act.

8. 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 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.

9. 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.

10. 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.

11. 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**.

12. 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, 08 months and 28 days. The trial is not likely to be concluded in near future. In view thereof, this Court is of the considered opinion that 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 or indulge in similar offences. Each day spent by an accused in custody provides a new cause of action to the petitioner to seek bail afresh. 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, but 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 has been 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 made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

12.05.2026

(MANISHA BATRA)  
JUDGE

harjeet

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|-----------------------------|--------|
| Whether speaking/reasoned : | Yes/No |
| Whether reportable :        | Yes/No |