



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-13253 of 2026

Date of Decision: 27.03.2026

Saleem Mohammad alias Salim Mohamad

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Gaurav Kalsi, Advocate
for the petitioner(s).

Mr. I.P.S.Sabharwal, Deputy Advocate General,
Punjab, for the respondent.

Surya Partap Singh, J.

1. This petition for bail is the first petition filed by the petitioner under Section 483 of 'the Bharatiya Nagarik Suraksha Sanhita, 2023'. It has been filed with regard to a case arising out of FIR No. 19 dated 05.02.2022, for the commission of offence punishable under Section(s) 18, 21, 22 and 29 of 'the Narcotic Drugs and Psychotropic Substances Act, 1985' and Section(s) 25 and 27 of the Arms Act, 1959 Police Station Shahpurkandi, District Pathankot, Punjab.

2. Briefly stating the facts emerging from the record are that the FIR of this case came into being at the instance of 'SI Navdeep Singh', who had reported that on 05.02.2022 when he was leading a team of police officials, deputed for usual law & order duty, he received a tip-off from a reliable source that 'Lakhbir Singh', along with his accomplices, namely

‘Anil Joshi’ and ‘Salim Mohammad’ (the petitioner herein), was involved in the trade of narcotics drugs and illegal weapons in the State of Punjab, after bringing the same from Jammu. According to the above named police officer, acting upon the above said information a white coloured Swift Dezire car bearing registration No. DL-6C-4871, coming from Jammu side, on Madhopur road via Defence Road, Pathankot, was intercepted, wherein ‘Lakhbir Singh’, ‘Anil Joshi’ and ‘Salim Mohammad’ (the petitioner herein) were travelling. According to prosecution, on body search of ‘Anil Joshi’, who was travelling on the rear seat of the car, 2 kgs. of ‘Heroin’ was recovered from his possession, whereas one pistol and two live cartridges each were recovered from the possession of accused, namely ‘Lakhbir Singh’ and the petitioner.

3. It is the case of prosecution that pursuant to above-mentioned recovery of contraband, the requisite formalities with regard to seizure and sealing of contraband, filing of FIR and arrest of accused were undertaken and further investigation taken up.

4. Heard.

5. It has been contended on behalf of petitioner that the petitioner is innocent, and that he has been falsely implicated in the present case. According to learned counsel for the petitioner, co-accused, namely ‘Anil Joshi’, from whose possession the alleged contraband was recovered, has already been released on bail, by the coordinate Bench of this Court. As per learned counsel for the petitioner, the petitioner has already faced a prolonged incarceration for being in custody for a period of more than four years and one month, and that nothing has been left to be recovered from the

possession of petitioner.

6. The learned State counsel has controverted the above-mentioned arguments on the ground that the recovery of contraband in the present case comes within the ambit of commercial quantity and therefore, without satisfying the twin conditions enshrined under Section-37 of NDPS Act, the benefit of bail cannot be afforded to the petitioner.

7. The record has been perused carefully.

8. As far as the principles governing the benefit of bail in a case related to NDPS Act, wherein the recovery of contraband comes within the ambit of commercial quantity are concerned, 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) 18 Supreme Court Cases 166 are also relevant, wherein 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.

9. In this regard it is also relevant to mention here that the Hon'ble Supreme Court of India in the case of 'Man Mandal 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.

10. In addition to above, in a recently pronounced verdict in the case of ‘Santosh Pawar Vs. State of Chhattisgarh & Another’ Criminal Appeal No.4883/2025 decided on 14.11.2025, 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.

11. 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.

12. In the case of ‘Ismail Khan @ Pathan vs. State of Rajasthan’ Criminal Appeal No.4911 of 2025 decided on 18.11.2025 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 two years and eight months of the

accused.

13. The similar benefit has been taken in another appeal i.e. 'Ebrahim @ Ibrahim SK vs. The State of West Bengal' Special Leave Petition (Criminal) No.15699 of 2025 decided on 14.11.2025 and in the case of 'Pamesh Arora vs. UT Chandigarh' Criminal Appeal No.4872 of 2025 decided on 14.11.2025.

14. In the case of 'Hasanujjaman & Others v. The State of West Bengal' [Special Leave Petition (Criminal) No.3221 of 2023, decided on 04.05.2023], 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, after considering that he was in custody for a period of about one year and three months. It has been further observed by the Hon'ble Supreme Court of India in the above mentioned case that 'the investigation is complete; charge-sheet has been filed, though the charges are yet to be framed. The conclusion of trial will, thus, take some reasonable time, regardless of the direction issued by the High Court to conclude the same within one year from the date of framing of charges. The petitioners do not have any criminal antecedents. There is, thus, substantial compliance of Section-37 of NDPS Act'.

15. Similarly, in the case of 'Nandlal Mondal @Abhay Mondal V/s The State of West Bengal' [Special Leave Petition (Criminal) No.12788/2023, decided on 03.01.2024], the Hon'ble Supreme Court of India has observed that the benefit of bail was afforded to the accused, who was found in possession of 10,000 ml of codeine phosphate, after a gap of one and a half year by considering that conclusion of trial would take long

time.

16. If the factual matrix of the present case is 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 four years & one month;
- ii) that the co-accused standing on same footing has already been afforded the benefit of bail;
- iii) that the main accused from whose possession the contraband was recovered, too, has been afforded the benefit of bail by this court, by virtue of order dated 05.12.2024;
- iv) that nothing has been left to be recovered from the possession of petitioner;
- v) that further detention of the petitioner in the judicial lock-up is not likely to produce a fruitful result;
- vi) that there is nothing on record to show that while on bail, the petitioner is likely to tamper with the evidence or influence the witnesses; and
- vii) that there is nothing on record to show that while on bail, the petitioner will not participate/cooperate in the investigation.

17. With regard to the legal aspect involved in the instant case, it is relevant to mention that the Hon'ble Supreme Court of India in the case of 'Dataram v. State of Uttar Pradesh and Another' (2018) 3 Supreme Court

Cases 22, has 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.”

18. 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 Supreme Court Cases 51, are also relevant in this case. In the above mentioned 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.”

19. Recently, in the case of ‘Tapas Kumar Palit v. State of Chhattisgarh’, 2025 SCC Online SC 322 the Hon’ble Supreme Court of India 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 above mentioned 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.”

20. 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.

21. If the cumulative effect of all the above mentioned 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

22. 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 above said concession shall be subject to following conditions:-

- a) 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 to disclose such facts to the Court or to any other authority;
- b) 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 conclusion of trial; and
- c) that the petitioner shall not leave India without prior permission of the trial Court.

23. It is, however, clarified that any observations made in the above-mentioned order shall not be construed as an expression of opinion on the merits of the case.

(Surya Partap Singh)
Judge

March 27, 2026
“DK”

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