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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

107+217

CRM-M-13073-2026 (O&M)

Date of decision: 8th April, 2026

Sahil Kanda

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Kanwaljeet Singh, Advocate for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

CRM-14244-2026

This application has been filed by the applicant for placing on record order dated 19.12.2025 as Annexure P-3.

For the reasons mentioned in the application, the same is allowed, subject to all just exceptions. Annexure P-3 is ordered to be taken on record.

Main case

. The instant one is the second petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 147 dated 04.07.2024 registered under Sections 21 and 61 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, '*NDPS Act*') (Section 317(2) of BNS added later on) at Police Station Jamalpur, District Police

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Commissionerate Ludhiana. His previous petition bearing CRM-M- No. 40660-2025 had been dismissed as withdrawn vide order dated 19.12.2025.

2. As per the allegations, on 04.07.2024, the Police officials were on patrolling near Ashiana Park, Mundian Kalan, Ludhiana, when two youths were seen coming on a motorbike. The motorbike was without number plate. Both of them were apprehended and they disclosed their names as Sahil Kanda i.e. the present petitioner and Dhananjay @ Deepu. A white polythene envelope thrown by them on the road side was also taken into possession from which 270 grams of *heroin* was found. The motorbike used by them was found to be a robbed one and offence under Section 317(2) of BNS was also added. The petitioner suffered disclosure statement admitting his involvement in the crime. 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. His involvement in other cases cannot be considered to be a reason for denying benefit of bail to him. The trial will take considerable time to conclude. No useful purpose would be served by detaining him in custody anymore. Co-accused has been extended benefit of regular bail. On parity, he too deserves to be extended the same benefit. It is, therefore, argued that the petition deserves to be allowed.

4. Status report and custody certificate have been filed. Learned State counsel has argued that keeping in view the gravity of the allegations levelled against the petitioner, the fact that the commercial quantity of

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recovered contraband had been recovered from him. The rigors of Section 37 of the NDPS are attracted in this case. There are chances of his absconding or committing similar offences, if extended benefit of bail. Moreso, the instant petition, being a successive petition, is not maintainable. It is, therefore, argued that the petitioner does not deserve to be extended benefit of bail.

5. This Court has heard the rival submissions made by the parties at considerable length.

6. The petitioner is in custody for a period of more than 01 year and 09 months. There are no chances of conclusion of trial in the near future as most of the prosecution witnesses are yet to be examined. Each day spent by an accused in custody extends a cause of action to him to seek concession of bail. It is well settled principle that law prefers bail over jail, aiming to balance the rights of the accused with the requirements of the criminal justice system. It is also well settled proposition of law that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and prolonged 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

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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 LiveLaw (SC) 533*, 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*, which is a recently pronounced verdict of Hon'ble Supreme Court observing 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 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.

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

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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. 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. 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***,

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wherein it was so observed. The previous petition of the petitioner was dismissed as withdrawn on 19.12.2025. The trial has not progressed much thereafter.

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 more than 01 year and 09 months. The trial is not likely to be concluded in near future as most of the prosecution witnesses are yet to be examined. The petitioner cannot be denied bail only because of his involvement in other cases. 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.

13. In view of the above discussion, this Court is of the opinion that a case is made out for grant of bail to the petitioner at this stage. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal as well as surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

14. In the event of there being any FIR/complaint lodged against the petitioner, it shall be open to the respondent-State to seek redressal by filing an application seeking cancellation of bail.

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15. 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.

16. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

8th April, 2026
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |