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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.14284 of 2026

Sher Singh alias Shera ... Petitioner

Versus

State of Punjab ... Respondent

1.	The date when the judgment is reserved	09.04.2026
2.	The date when the judgment is pronounced	10.04.2026
3.	The date when the judgment is uploaded on the website	10.04.2026
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. Randhir Singh Thind, Advocate and
Mr. Bhritgu Agnihotri, Advocate,
for the petitioner.

Mr. Durgesh Garg, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J.

1. The instant one is the fifth petition as filed by the petitioner
under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For

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short “BNSS”) seeking regular bail in case arising out of FIR No.0134 dated 14.08.2021 registered under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’) and Section 25 of Arms Act, 1959 at Police Station Special Task Force Phase-4, SAS Nagar, Mohali, Punjab. Three of the petitions as previously filed by the petitioner had been dismissed as withdrawn vide orders dated 30.11.2022, 20.03.2023 and 16.10.2024 respectively whereas the 4th petition bearing CRM-M-14386-2025 had been dismissed by this Court vide order dated 02.09.2025.

2. The petitioner is facing trial for commission of aforementioned offences on the allegations that on 14.08.2021, he was found in conscious possession of 500 grams of heroin, 01 pistol 7.65mm with magazine carrying 08 live cartridges and cash amount of Rs.25,15,000/- which was drug money. He also got recovered 25 grams of heroin and gold jewellery weighing 75.110 grams respectively.

3. It is argued by learned counsel for the petitioner that after dismissal of his last previous petition, the trial has not progressed much further as only 06 out of 36 prosecution witnesses have been examined so far. He is suffering from neurological ailment and has not been provided proper treatment. His condition is worsening day by day. No useful purpose is going to be served by detaining him in custody any more. Each day spent by him in custody has furnished a ground afresh to him to seek concession of bail. It is, therefore, argued that he deserves to be released on bail.

4. Per contra, learned Assistant Advocate General, Punjab while

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relying upon the status report has argued that taking into consideration the gravity of the allegations as levelled against the petitioner, the fact that commercial quantity of contraband had been recovered from him and provisions of Section 37 of NDPS Act are attracted in this case coupled with the fact that this is a successive petition without any substantive change in the circumstances, the petitioner does not deserve to be extended benefit of bail.

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

6. The petitioner is alleged to have been found in conscious possession of commercial quantity of contraband, some arms and ammunitions and cash amount of Rs.25,15,000/-. He is in custody since 14.08.2021. There are no chances of conclusion of trial in near future so far as only 06 out of 36 witnesses have been examined. His last previous petition had been dismissed on 02.09.2025. The trial has not progressed much thereafter. 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

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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 Live Law (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*, wherein Hon'ble Supreme Court 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 abovementioned 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

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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 Crminal 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. So far as the 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. Three of the petitions as previously filed by the petitioner had been dismissed as withdrawn whereas the 4th petition bearing CRM-M-14386-2025 had been dismissed by this Court vide order dated 02.09.2025. Trial has not progressed much thereafter. 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 04 years, 07 months and 26 days, the trial is not likely to be concluded in near future as only 06 out of 36 prosecution witnesses have been examined; 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. As such, the prolonged detention of the petitioner amounts to drastic change in circumstances extending fresh ground to petitioner to seek bail.

12. In view of the above discussion, this Court is of the considered 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 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

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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.

13. 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.

10.04.2026
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(MANISHA BATRA)
JUDGE

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