

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:076417



214

CRM-M-14734-2026 (O&M)
Date of decision:14.05.2026

Shailendra Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Baljeet Beniwal, Advocate for the petitioner.

Ms. Himani Arora, DAG, Haryana.

...

Manisha Batra, J. (Oral).

1. The instant petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to him in case arising out of FIR No.368, dated 02.09.2024, registered under Section 20 and 29 of the NDPS Act, at Police Station Chandhat, District Palwal.

2. As per the allegations, on 02.09.2024, on the basis of a secret information, the petitioner, co-accused Shivam and Vikash @ Golu were apprehended along with a motorbike. On conducting search, recovery of 26.82 kgs of ganja, which was kept into the boxes of the motorbikes had been effected. They were formally arrested. On their disclosure, accused Vinod was nominated as such. 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. Co-accused Shivam has been extended benefit of bail. On parity, he too deserves to be extended the same benefit. His antecedents are clean. His continued detention would not serve any useful purpose. It is, therefore, argued that the petitioner deserves to be extended the benefit of bail.

4. Per contra, learned State counsel, while relying upon the status report, has argued that taking into consideration the gravity of the allegations as levelled against the petitioner, 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. The petitioner along with co-accused was found in conscious possession of commercial quantity of *ganja* on 02.09.2024. He was apprehended and is in custody since then. Though, the allegations make out a *prima facie* case for commission of the subject offences against him, however, it is apparent that there are no chances of conclusion of trial in near future as no prosecution witness has been examined so far. The petitioner has remained in custody since 02.09.2024. 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.

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 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.

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 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. On analysing 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 and the trial is not likely to be concluded in near future as no prosecution witness has been examined so far. The petitioner has clean antecedents. 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. 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, 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 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.

12. 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.

14.05.2026

harjeet

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

(MANISHA BATRA)
JUDGE