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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH**

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**CRM-M-26179-2025 (O&M)**  
**Date of decision: 19.03.2026**

**Gurbhej Singh****...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Vipul Jindal, Advocate  
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

**MANISHA BATRA, J. (Oral)**

**1. CRM-42857-2025**

Allowed as prayed for.

Documents are taken on record.

**2. CRM-M-26179-2025 (O&M)**

Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in FIR No. 134 dated 29.06.2024, registered under Sections 21(C), 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) and Section 25 of the Arms Act at Police Station Lopoke, District Amritsar (Rural).

3. Brief facts of the case relevant for the disposal of the present petition are that on 29.06.2024, a secret information was received by ASI Kwarjit Singh to the effect that the petitioner and co-accused Jaskaran Silngh were involved in smuggling of heroin and on that day, they were going towards

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Bachiwind side on a motorcycle to supply heroin. Believing the information to be reliable, the police party reached at the informed placed and saw two persons coming on a motorcycle make Hero Splendor, which was not having any number plate. They were apprehended and on interrogation, the driver disclosed his name as 'Gurbhej Singh', who is the present petitioner and the pillion rider disclosed his name as 'Jaskaran Singh'. On conducting their search, six packets containing 01 kg. heroin each were recovered from co-accused Jaskaran Singh, which he had held in his hand, whereas three pistols i.e. one Glock 9 MM pistol and two .30 bore pistols along with magazines were recovered from the present petitioner. The recovered contraband and other articles were taken into possession by the police. The said motorcycle was also taken into custody. The petitioner and co-accused were formally arrested. They suffered disclosure statements admitting their guilt and that they had received the contraband and illegal arms from a Pakistan based smuggler. They also disclosed that they used to receive contraband and illegal arms from said Pakistani smuggler and used to supply the same to some other persons on the instructions of that Pakistani smuggler. After completion of necessary investigation and usual formalities, *challan* was presented before the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid mentioned offences.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Mandatory provisions of Sections 42 and 50 of the NDPS Act were not complied with properly. No contraband had been recovered from the petitioner. He has clean antecedents. False recovery of some illegal arms was planted upon him. The contraband recovered from co-accused cannot be termed to have been recovered from the petitioner. Even otherwise,

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investigation has since been completed and challan has been filed. The trial is likely to take a long time. The petitioner is in custody since 29.06.2024. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed. It is additionally argued by learned counsel for the petitioner that no grounds of arrest was supplied to the petitioner, either in written or oral, at the time of his arrest and the same was in clear violation of his fundamental rights guaranteed under Article 22(1) of the Constitution of India and on this ground alone, the petitioner is entitled to be released on bail.

5. Status report has been filed by the respondent-State. Learned State counsel has opposed the prayer of the petitioner by submitting that he was apprehended on the basis of a credible secret information and the recovery effected clearly establishes his active involvement in an organized cross-border smuggling network. It is argued that although the heroin was recovered from the co-accused but the petitioner was apprehended along with him at the spot and was found in conscious and joint possession, besides being in possession of illegal firearms, which shows his active role in the offence. The disclosure statements of the petitioner and the co-accused further reveal their nexus with a Pakistan-based smuggler and the larger criminal conspiracy involved. It is contended that the offences are grave and carry stringent punishment, attracting the rigors of Section 37 of the NDPS Act. No exceptional circumstance is made out for grant of bail. The alleged procedural violations are disputed matters of fact, which can be adjudicated only during trial and not at the stage of bail. It is, thus, urged that keeping in view the gravity of the allegations, the petition is liable to be dismissed.

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6. This Court has heard the rival submissions.
7. As per the allegations, the petitioner along with co-accused was found in conscious possession of commercial quantity of heroin on 29.06.2024. Recovery of certain illegal arms and ammunitions was also effected from the petitioner. Learned counsel for the petitioner has raised an argument that the petitioner was not supplied with the grounds of arrest at the time of his arrest in violation of his fundamental rights guaranteed under Article 22(1) of the Constitution. Though, this argument is sustainable in the eyes of law, however, the same has been raised at a belated stage as the same could have been well pleaded at the time when the petitioner was produced before the jurisdictional Magistrate for remand.
8. On going through the material placed on record, it is apparent that 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 most 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

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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.

9. 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.

10. 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

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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.

11. 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.

12. 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*.

13. 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 for a period of 01 year, 08 months and 20 days and the trial is not likely to be concluded in near future. 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

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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.

14. 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.

19.03.2026  
*Waseem Ansari*

(MANISHA BATRA)  
JUDGE

*Whether speaking/reasoned*  
*Whether reportable*

*Yes/No*  
*Yes/No*