

2026:PHHC:061529



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.16419 of 2026

Gurbhej Singh @ Bheja ... Petitioner
Versus
State of Punjab ... Respondent

1.	The date when the judgment is reserved	22.04.2026
2.	The date when the judgment is pronounced	23.04.2026
3.	The date when the judgment is uploaded on the website	23.04.2026
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. J.S. Sandhu, Advocate,
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J.

1. The instant one is the third petition as filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking regular bail in case arising out of FIR No.182 dated 04.11.2020 registered under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’) (Sections 21(c), 23 and 29 of NDPS Act and Section 25 of Arms Act, 1959 added

2026:PHHC:061529



later on) at Police Station City Jalalabad, District Fazilka. The first petition as filed by the petitioner had been dismissed vide order dated 01.08.2022 whereas the second was dismissed as on 26.11.2024.

2. As per the allegations, on 04.11.2020, the petitioner along with co-accused Kulwant Singh @ Kanta was found in conscious possession of 120 grams of heroin and drug money to the tune of Rs.60,000/-. The recovered contraband and money had been taken into custody by the police. The petitioner and the co-accused were formally arrested. The petitioner suffered disclosure statement and in pursuance thereof, got recovered 3 Kgs 546 grams of heroin and one 12 bore pistol. Investigation now stands concluded. The petitioner along with the co-accused is facing trial for commission of aforementioned offences.

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 for a period of about 05 years, 05 months and 19 days. Co-accused Kulwant Singh @ Kanta has been extended benefit of bail. On parity, he too deserves to be extended the same benefit. The trial is likely to take considerable time to conclude. No useful purpose would be served by detaining him in custody any more. Each day spent by him in custody has given 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 relying upon the status report has argued that there are serious allegations

2026:PHHC:061529



against the petitioner. He is a habitual offender being involved in six other cases four of which are under the provisions of NDPS Act. There are chances of his committing similar offences or absconding, if extended benefit of bail. The instant one is successive petition and is not maintainable. With these broad submissions, it is urged that the petition does not deserve to be allowed.

5. This Court has considered the rival submissions.

6. The petitioner is in custody since 04.11.2020. Nine witnesses are yet to be examined so that the trial will take considerable time to conclude. This factor, in the opinion of this Court, is a ground to move for bail afresh. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time, and the bail application can be considered on its own merits even if it is filed repeatedly. It has also been held that every day spent in custody can provide a new cause of action for filing a bail application under certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the rights of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since the settled principle of law is that detention prior to trial should not become punitive. 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

2026:PHHC:061529



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 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 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 of India held that appellant who was being prosecuted for being in possession of commercial

2026:PHHC:061529



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 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.

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 of India 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 taken 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 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 05 years, 05 months and 19 days, the trial is not likely to be concluded in near

2026:PHHC:061529



future as nine witnesses are yet to be 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.

12. 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 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 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.

23.04.2026
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No