

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:050310



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CRM-M-16322-2026 (O&M)
Date of decision:01.04.2026

Sarabjit Kaur @ Sarabjit Kaur @ Shabo

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vishal Munjal, Advocate for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. The instant one is the second petition as filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") for grant of regular bail in case arising out of FIR No.0411 dated 22.09.2023, registered under Sections 21(c) and 29 of the NDPS Act, at Police Station Goindwal Sahib, District Tarn Taran.

2. As per the allegations, the petitioner along with co-accused Nirmal Singh was found in conscious possession of 265 grams of heroin as on 22.09.2023. She is presently facing trial for commission of the aforementioned offences.

3. It is argued by learned counsel for the petitioner that after dismissal of her previous petitions, the trial has not progressed much and is likely to take considerable time to conclude. She is in custody for a period of more than 02 years and 06 months. No useful purpose would be served by her further detention. Each day spent by her in custody furnishes a new ground to extend benefit of bail to her. Co-accused Nirmal Singh, whose case is on similar footings, has been extended benefit of bail. On parity, she too deserves to be extended the same benefit. It is, thus, argued that she deserves to be extended the benefit of bail.

4. Per contra, learned State counsel has argued that the present one being the second/successive petition for grant of regular bail is not maintainable as first petition as filed by the petitioner was dismissed by passing a detailed order. Rigors of Section 37 of the NDPS Act are attracted in this case. It is, therefore, stressed the petition does not deserve to be allowed.

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

6. 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***, wherein it was so observed by Hon'ble Supreme Court. The petitioner is in continuous custody since 22.09.2023. There are no chances of conclusion of the trial in near future as only 07 prosecution witnesses have been examined so far. 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 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***, 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 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. 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 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 02 years and 06 months, the trial is not likely to be concluded in near future; 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 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 her furnishing personal as well as surety bonds to the extent of two sureties in the like amount each, to the satisfaction of the learned trial Court, and subject to the condition that she shall appear before the learned trial Court on each and every date of hearing except when her presence has been exempted by the trial Court. She shall surrender her passport, if any, furnish details of her cell phone and Aadhar card, and shall not change her 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.

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

01.04.2026

harjeet

(MANISHA BATRA)
JUDGE

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