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

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**CRM-M No.17569 of 2026
Date of Decision: 08.04.2026**

Dalbir Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vipul Jindal, Advocate and
Mr. Vishal Khatri, Advocate,
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The instant one is the second 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.224 dated 25.12.2022 registered under Sections 21, 23 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Sections 10, 11 and 12 of Aircraft Act, 1934 at Police Station Gharinda, District Amritsar Rural. The previous petition as filed by him, has been dismissed as withdrawn vide order dated 18.11.2024.

2. As per the allegations, on 25.12.2022, on receipt of a secret

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information to the effect that the present petitioner along with his brother Jagdish Singh was involved in smuggling of contraband from cross border in connivance with Pakistani smugglers and by smuggling heroin through drone from Pakistan and by supplying it further. It was also informed that on that very day also, they were roaming in the vicinity of Village Dhanoi Khurd via Dhanoi Kalan in their Breeza car and could be apprehended with contraband. Believing the secret information to be true, a raiding party was formed which reached at the informed place and recovered 10 Kgs. of heroin and one drone from the conscious possession of the petitioner and co-accused. They were formally arrested. Investigation now stands completed.

3. It is argued by learned counsel for the petitioner that he has been in custody since 25.12.2022. He has been falsely implicated in this case. He is suffering from medical ailments. He has remained admitted in hospital for one month during his custody. His medical condition is getting worse day by day. He had undergone testicular cancer surgery in the year 2021. The mandatory provisions of the NDPS Act were not complied with at the time of alleged recovery. No recovery has been effected from conscious possession. A false recovery has been planted. There are no chances of conclusion of trial in near future as none out of 16 prosecution witnesses has been examined so far despite the fact that he has been in prolonged incarceration for a period of more than 03 years and 03 months. His prolonged incarceration militates against his fundamental right guaranteed

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under Article 21 of the Constitution of India. As such, it is urged that he deserves to be released on bail.

4. Notice of motion.

5. Ms. Sakshi Bakshi, AAG, Punjab has advance notice of the petition and is ready to argue the matter. She has placed on record custody certificate. She has vehemently argued that keeping in view the gravity of the allegations as levelled against the petitioner, the recovery of huge quantity of contraband effected from the conscious possession of the petitioner as well as the co-accused and the fact that rigors of Section 37 of NDPS Act are attracted in this case, the petitioner does not deserve to be extended benefit of bail.

6. This Court has considered the rival submissions.

7. The petitioner along with the co-accused is alleged to have been found in conscious possession of commercial quantity of contraband. The allegations prima facie make out a case for commission of aforementioned offences as against the petitioner. Now he has been in custody for a period of more than 03 years and 03 months. Not even a single witness has been examined so far and, therefore, chances of conclusion of trial in near future are obviously bleak. 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

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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 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

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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.

8. 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.

9. 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.

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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.

11. 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***.

12. 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 more than 03 years and 03 months and the trial is not likely to be concluded in near future as not even a single witness been examined. The co-accused Jagdish whose case is on similar footing has been extended benefit of bail. On parity, the petitioner too deserves to be given the same benefit. The further 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 admitted to bail subject to his furnishing personal bonds as well as surety bonds by two sureties in the like amount each to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned and on the following

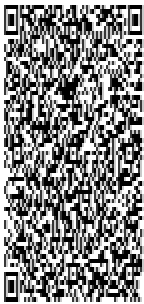
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- (i) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any Police Officer.
- (ii) He shall not leave the country under any circumstance without permission of the learned trial Court.
- (iii) He shall appear before the trial Court on each and every date fixed, unless is exempted by specific order of the Court.
- (iv) he shall provide his permanent address as well as present address before the learned trial Court at the time of furnishing of bonds and shall not change the same without informing the trial Court.
- (v) He shall also give copy of his Aadhar Card, PAN Card if any and details of his mobile phone number(s) to the learned trial Court at the time of furnishing of bonds and in case, any change in his mobile phone number takes place, then he shall inform about the same to the learned trial Court in advance and shall keep his mobile phone switch on all times.
- (vi) He shall deposit his passport with the learned trial Court.

In the eventuality of breach of any of the aforementioned

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conditions, the respondent-State shall be at liberty to move an application seeking cancellation of the bail.

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.

08.04.2026
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(MANISHA BATRA)
JUDGE

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