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

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**CRM-M No.18611 of 2026
Date of Decision: 16.04.2026**

Gagandeep Singh @ Gaggi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Naresh Singh Jandoli, Advocate,
for the petitioner.

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

MANISHA BATRA, J. (Oral)

1. The instant one is the 3rd petition as filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) for grant of regular bail in case arising out of FIR No.124 dated 23.08.2023 registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’) at Police Station Bullowal, District Hoshiarpur. The previous petitions as filed by the petitioner had been dismissed by this Court vide order dated

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18.10.2024 and 01.08.2025 respectively.

2. As per the allegations, on 23.08.2023, the petitioner was found in conscious possession of 255 grams of intoxicating powder Alprazolam. He 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. After dismissal of his previous petitions, the trial has not progressed much as only 03 prosecution witnesses have been examined so far. There are no chances of conclusion of trial in near future. No useful purpose would be served by detaining him in custody any more. Each day spent by him in custody has furnished a new ground to him to seek concession of bail. His continued detention militates against his fundamental right of personal liberty as enshrined in the Constitution of India. It is, therefore, argued that the petition deserves to be allowed.

4. Notice of motion.

5. Mr. Roshandeep Singh, AAG, Punjab has advance notice of the petition and while placing on record the custody certificate, it is argued by him that the petition is not maintainable as previous two petitions as filed by the petitioner had been dismissed by passing detailed orders. There is no drastic or substantive change in the circumstances. While admitting that only 03 witnesses have been examined, it is urged that the petition does not deserve to be allowed.

6. This Court has considered the rival submissions.

7. The petitioner is alleged to have been found in possession of 255 grams of intoxicating powder Alprazolam. He is in custody for a period

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of about 02 year, 07 months and 22 days. Only 03 prosecution witnesses, have been examined so far and hence, it is obvious that there are no chances of conclusion of trial in near future. So far as the 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. Two petitions filed by the petitioner previously have been dismissed. However, the trial has not progressed much as only 03 prosecution witnesses have been examined. 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. The petitioner has

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suffered prolonged incarceration for a period of about 02 years, 07 months and 22 days. The trial is still likely to take time. 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 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***, wherein Hon'ble Supreme Court observed that rigours of Section 37 of NDPS Act will not be

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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 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 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.

10. 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.

11. 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***.

12. On analyzing the peculiar facts and circumstances of the present

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case in the light of the aforementioned principles of law and in view of the discussion so made, this Court is of the considered 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.

16.04.2026
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No