

2026.PHHC.062589



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-20678-2026

Gursaran

...Petitioner

Versus

State of Haryana

...Respondent

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	23.04.2026
2	The date when the judgment is pronounced	27.04.2026
3	The date when the judgment is uploaded on the website	27.04.2026
4	Whether only operative part of the judgment is pronounced or 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. Rajender Pal, Advocate for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

MANISHA BATRA, J :-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’) by the petitioner seeking grant of regular bail in case bearing FIR No. 183 dated 15.06.2024 registered under Sections 15-C and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, ‘NDPS Act’) at Police Station Mundkati, District Palwal.

2. As per the allegations, on 15.06.2024, on the basis of a secret

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information, the petitioner was apprehended and 593 kgs and 500 grams of poppy husk was recovered from his conscious possession. He was formally arrested. The driver of the vehicle had managed to abscond and his name came to be known as Pappu Singh son of Karnail Singh. Investigation now stands completed.

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 since 15.06.2024. He is an HIV patient and his medical condition is serious. There are no chances of conclusion of trial in near future as only 02 witnesses out of 31 prosecution witnesses have been examined so far and that too partly. No useful purpose would be served by detaining him in custody anymore. He is not involved in any other case of similar nature. With these broad submissions, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that taking into consideration the gravity of the allegations as levelled against the petitioner and the fact that the rigors of Section 37 of NDPS Act are attracted in this case, he does not deserve to be released on bail. There are chances of his absconding or committing similar offences, if extended benefit of bail. Therefore, it is stressed that the petition does not deserve to be allowed.

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

6. The well settled proposition of law is that the Court while

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considering an application for grant of bail has to keep certain factors in mind, such as, whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of accused absconding or fleeing, if released on bail and reasonable apprehension of the witnesses being threatened. The period of incarceration is also relevant fact that is to be considered. It is also unequivocally established that, to be granted bail, the accused charged with offence under the provisions of NDPS Act must fulfill the conditions stipulated in Section 37 of the Act. A contention has been raised that the rigors of Section 37 of the NDPS Act are attracted in the present case as there is recovery of commercial quantity of contraband.

7. In the instant case, contraband of commercial quantity was allegedly recovered from the petitioner. The petitioner has placed on record Annexure P-4 report of Medical Officer of District Jail, Faridabad showing that he is a known case of HIV and has been providing treatment. As per this report, his general condition is stable and vitals are within normal limit. As such, it cannot be stated that his condition is critical. However, he has remained in custody for a period over 01 year and 10 months. Only 02 out of 31 witnesses that too partly have been examined by prosecution in this case, obviously, chances of trial in near future are bleak. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody

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for an indefinite period of time. 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 true that grant of bail on account of delay in trial and long period of incarceration is to be considered in light of Section 37 of the NDPS Act. Reliance in this regard can be placed on the observations made by the 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 436A which is applicable to offences under the Act. It was also observed that the 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 bail was granted to the accused, who had been incarcerated for a period of almost two to three years and the trial was likely to take considerable time, by observing that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution, and in such a situation, the constitutional principle must override the statutory embargo contained under Section 37 of the NDPS Act.

8. In view of the above discussion, this Court is of the opinion that

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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 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 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.

9. 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.

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

[MANISHA BATRA]
JUDGE

27th April, 2026
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |