

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH



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CRM-M-22305-2026 (O&M)

Gurjinder Singh @ Guri

... Petitioner

Vs.

State of Punjab

... Respondent

1.	The date when the judgment is reserved	18.05.2026
2.	The date when the judgment is pronounced	20.05.2026
3.	The date when the judgment is uploaded on the website	20.05.2026
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. Rahul Kadian, Advocate for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. The instant one is the second petition for grant of regular bail as filed by the petitioner in case arising out of FIR No.54, dated 20.03.2024, registered under Sections 22 and 29 of the NDPS Act, at Police Station Sultanpur Lodhi, District Kapurthala. The previous petition as filed by him bearing CRM-M-38939-2024, had been dismissed vide order dated 20.03.2025.

2. Brief facts of the case relevant for the disposal of the present petition are that on 20.03.2024, the petitioner along with co-accused was apprehended by a police party headed by ASI Harish Kumar and recovery of 1200 intoxicant tablets of Tramadol Hydrochloride was effected from them. Since he could not produce any licence or permit to keep in his possession the recovered tablets, he was formally arrested at the spot. After completion of necessary investigation and usual formalities, challan was presented before the Court on 16.09.2024 and presently, the petitioner along with co-accused is facing trial for commission of aforesaid mentioned offences.

3. It is argued by learned counsel for the petitioner that ever since the dismissal of his previous petition for grant of regular bail, the trial has not progressed much since only 02 out of 13 prosecution witnesses have been examined so far. There are no chances of conclusion of the trial in near future. He is in custody since 20.03.2024. Prolonged incarceration of the petitioner without any possibility of conclusion of trial in near future is against the fundamental right of liberty enshrined under Article 21 of the Constitution of India. Each day spent by him in custody has furnished a new ground to him to seek benefit of bail afresh. With these broad submissions, it is argued that he deserves to be extended the benefit of bail.

4. Per contra, learned State counsel while relying upon the status report has argued that the instant one being the successive petition, is not maintainable. It is further submitted that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be extended the benefit of bail.

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.

7. In the instant case, the petitioner is alleged to have been found in conscious possession of 1200 intoxicant capsules of Tramadol Hydrochloride as on 20.03.2024 and is in custody since then. Though, the allegations *prima facie* make out a case for commission of subject offences against the petitioner, however, on a perusal of the record, it is apparent that there are no chances of conclusion of the trial in near future and it will take considerable time as a substantive number of the prosecution witnesses are yet to be examined. The petitioner has remained in custody since long. 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 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. passed in Criminal Appeal No.4883/2025 decided on 14.11.2025**, 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 **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.

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 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 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 02 years and 02 months. The trial is not likely to be concluded in near future. In view thereof, this Court is of the considered opinion that 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 or

indulge in similar offences. Each day spent by an accused in custody provides a new cause of action to the petitioner to seek bail afresh. 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, but 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 Aadhar card, and shall not change his mobile number(s) during the pendency of the trial.

13. 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.

20.05.2026

harjeet

**(MANISHA BATRA)
JUDGE**

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