



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

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CRM-M-24004-2025 (O&M)
Date of decision : 16.02.2026

Shamsher Singh @Shera

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Gagandeep Singh Bajwa, Advocate for the petitioner.

Mr. Rohit Bansal, Sr. DAG Punjab.

SURYA PARTAP SINGH, J.

This is first petition for bail filed by the petitioner with regard to a case arising out of FIR No.101 dated 13.12.2023 under Sections 21(C), and 29 of Narcotic Drugs and Psychotropic Substances Act, hereinafter being referred to as 'NDPS Act' only, Police Station Sarai Amant Khan, District Tarn Taran. The abovementioned FIR came into being when a team of police official led by 'SI Charanjit Singh' was deputed for patrolling duty and during the discharge of abovementioned duty, on the basis of suspicion a motorcycle bearing registration No.PB02-EN-2722, carrying two persons, was intercepted and from the possession of occupants of abovementioned motorcycle, 2.80 kg of Heroin was recovered from the possession of petitioner and 2.22 kg of Heroin from Yadwinder Singh @Yaad.

2. It is the case of the prosecution that on recovery of abovementioned contraband, necessary formalities with regard to seizure &



sealing of contraband, lodging of FIR, and formal arrest of the accused were performed, and further investigation taken up.

3. **Notice of motion.**

4. Mr. Rohit Bansal, Sr. DAG Punjab appears on behalf of respondent-State. Hence service of notice upon the State is hereby dispensed with. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record. Short reply has already been placed on record.

5. Heard.

6. The record has been perused carefully.

7. As far as the principles governing the benefit of bail in a case related to NDPS Act, pertaining to recovery of commercial quantity, are concerned, the principles of law laid down by the Hon'ble Supreme Court in the case of 'Mohd. Muslim @ Hussain v. State' (NCT of Delhi), 2023 SCC OnLine SC 352 are relevant, wherein the Hon'ble Supreme Court has 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 which is applicable to offences under the Act.

8. In this regard it is also relevant to mention here that the Hon'ble Supreme Court of India in the case of '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 1109, extended the benefit of bail to the accused, who had been incarcerated for a period of almost 2-3 years and the trial was likely to take considerable



time. The above-mentioned benefit has been given 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 principles must override the statutory embargo contained under Section-37 of the NDPS Act.

9. In addition to above, in a recently pronounced verdict in the case of ‘Santosh Pawar Vs. State of Chhattishgarh & Anr.’ Criminal Appeal No.4883/2025, the Hon’ble Supreme Court of India observed 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 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.

10. 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 Hon’ble Supreme Court of India expressed the opinion that Section 436A of the Criminal Procedure Code, 1973 [which requires inter alia the accused to be enlarged on bail if the trial is not concluded within specified periods] would apply in such cases.



11. 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.

12. 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.

13. In the case of 'Hasanujjaman & Ors. V/s The State of West Bengal' SLP (Crl.) No.3221 of 2023, the benefit of bail has been accorded by the Hon'ble Supreme Court of India to an accused, who was found in the possession of 115 bottles of phensedyl, by observing that:-

- a) the petitioner was in custody for a period of one year and three months;
- b) the investigation in that case was complete and charge-sheet had been filed, but charges were yet to be framed;
- c) the conclusion of trial would take some time; and
- d) the petitioner had no criminal antecedents.

In view of abovementioned prevailing factors, it has been observed by the Hon'ble Supreme Court of India that there is substantial compliance of Section-37 of NDPS Act.

14. Similarly, in the case of 'Nandlal Mondal @Abhay Mondal V/s The State of West Bengal' SLP(Crl) No.12788/2023, the Hon'ble Supreme



Court of India afforded the benefit of bail to the accused, who was found in possession of 10,000 ml of codeine phosphate, and was in custody for a period of one and a half year, by considering that conclusion of trial would take long time.

15. If the facts and circumstances of the present case are analyzed in the light of above-mentioned principles of law, it transpires that:-

- (i) that the petitioner is already in custody for a period of almost two years and two months;
- (ii) that there is big question mark with regard to credibility of prosecution case, particularly with regard to compliance of Section 50 of NDPS Act;
- (iii) that the petitioner has clean antecedents;
- (iv) that the trial is taking place at a very slow pace as out of 11 prosecution witnesses, not even a single witness has been examined so far;
- (v) that nothing is left to be recovered from the possession of petitioner;
- (vi) that detention of petitioner in judicial lock up is not likely to serve any purpose;
- (vii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and
- (viii) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in trial.

16. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable,



fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon’ble Apex court in “Balwinder Singh versus State of Punjab and Another”, 2024 SCC Online SC 4354.

17. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

18. Accordingly, without commenting anything on the merits of the case, the present petition is hereby *allowed*. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However the abovementioned concession shall be subject to following conditions:-

- (i) that the petitioner 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 to disclose such facts to the Court or to any other authority.
- (ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- (iii) that the petitioner shall not leave India without prior permission of the trial Court.

(SURYA PARTAP SINGH)
JUDGE

16.02.2026

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No