



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

237

CRM-M-24757-2026

Date of decision: 07.05.2026

GURJIT SINGH ALIAS KALU

.....PETITIONER

Versus

STATE OF PUNJAB

..... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Sarfaraz Singh Gill, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J.**CRM-19345-2026**

This is an application seeking for placing on record certain documents. For the reasons stated in the application, the same is hereby allowed and the documents annexed with the application are taken on record.

Main case

1. This petition for bail is the first petition, filed by the petitioner under Section 483 of 'the Bharatiya Nagarik Suraksha Sanhita, 2023'. This petition has been filed with regard to a case arising out of FIR No.11 dated 09.03.2024 for the commission of offence punishable under Sections 21(c), 29, 27-A, 61-85 of Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 25-54-59 of Arms Act, 1959, Section 52 of Prisons Act & Sections 10, 11, 12 of the Aircraft Act [Sections 29, 27-A, 61-85 of NDPS Act, Section 52 of Prisons Act & Sections 10, 11, 12 of the Aircraft Act added later on],



Police Station Dorangla, District Gurdaspur.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being at the instance of Sub Inspector Davinder Kumar, who had reported that on 09.03.2024 when he was on patrolling duty alongwith other police officials, on the basis of secret information a car bearing registration No.PB-02-CP-7100 was intercepted at the barricade set up by the police party. According to above-named police officer the occupants of the car were 'Satnam Singh' and 'Gurjeet Singh @ Kaalu' (the petitioner herein). The above-named police officer further reported that when the search of the car was carried out, 405 grams of 'Heroin' alongwith drone was recovered.

3. It is the case of the prosecution that pursuant to recovery of above-mentioned contraband, requisite formalities with regard to seizure and sealing of contraband, filing of FIR and formal arrest of the accused were completed, and thereafter, further investigation taken up.

4. Notice of motion.

5. Since advance notice has already been served upon the State, Mr. I.P.S. Sabharwal, DAG, Punjab, accepts notice on behalf of respondent-State. Hence, the 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. No formal reply has been filed by the State. However the learned State counsel has opted to oppose orally the present petition.

6. Heard.

7. It has been contended by learned counsel for the petitioner that the petitioner has already suffered a prolonged incarceration for being in custody



for a period of more than two years and one month. According to learned counsel for the petitioner the trial is taking place at a snail's pace, as out of twenty three prosecution only six witness have been examined so far and remaining seventeen are yet to be examined.

8. The learned State counsel has controverted the above-mentioned arguments. According to learned State counsel in the present case the recovery of contraband, from the possession of petitioner, comes within the ambit of commercial quantity and therefore, without satisfying the rigors of Section 37 of NDPS Act, the petitioner cannot be enlarged on bail.

9. The record has been perused carefully.

10. Since the quantity of contraband recovered in the present case comes within the ambit of commercial quantity, the principles related to recovery of commercial quantity of contraband under NDPS Act, 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. In the abovementioned case 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.



18. 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 has already suffered prolonged incarceration for being in custody for a period of more than two years and one month;
- ii) that the benefit of bail has already been accorded to similarly placed co-accused;
- iii) that the investigation in this case is already complete, and nothing has been left to be recovered from the possession of petitioner;
- iv) that the trial is not likely to be concluded in near future, as out of twenty three prosecution witnesses, seventeen are yet to be examined;
- v) that the trial is not likely to be concluded in near future;
- vi) that the detention of petitioner in judicial lock-up is not likely to serve any useful 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;
- viii) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

19. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, are relevant, wherein it has been observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect



of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

20. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’ (2022) 10 SCC 51, are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.



21. Recently, in the case of ‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has observed that “if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that “delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

22. 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.

23. 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.

24. 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 abovesaid 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

07.05.2026

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