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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M-24149-2026 (O&M)

Makhan Singh @ Kalu ...Petitioner

Versus

State of Punjab ...Respondent

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	06.05.2026
2	The date when the judgment is pronounced	07.05.2026
3	The date when the judgment is uploaded on the website	07.05.2026
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. Rajesh Tushar, Advocate
for the petitioner.

Mr. Vivek Sharma, AAG, Punjab.

MANISHA BATRA, J.

- Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in FIR No. 30 dated 26.01.2024, registered under Sections 21, 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station City Barnala, District Barnala.
- Brief facts of the case relevant for the disposal of the present petition are that on 26.01.2024, the petitioner was apprehended by a police

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party and recovery of 480 intoxicant vials of WINCEREX and 500 intoxicant tablets of Etiwill 0.5 MD was effected from his conscious possession. The same was taken into possession by the police. Since he could not produce any valid license or permit to keep in his possession the recovered drugs, he was formally arrested at the spot. Upon interrogation, he disclosed that one Pritpal Singh alias Kali used to supply the intoxicant vials and tablets to him and he used to supply the same to one Mamta in whole sale. Both the said persons were also nominated as accused in this case. Investigation now stands completed and challan has been filed. The petitioner along with the co-accused 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. A false recovery was planted upon him. He has been in custody for the last more than two years. Investigation has since been completed and challan has been filed. Conclusion of trial is likely to take time as only one out of total twenty prosecution witnesses has been examined so far. His prolonged detention entitles him to seek bail. His involvement in other cases cannot be made a ground for denying him the benefit of bail in the given circumstances. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

4. Custody certificate of the petitioner has been filed. It is argued by learned State counsel that keeping in view the gravity of the allegations levelled against the petitioner, his criminal antecedents as well as the fact

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that commercial quantity of the contraband had been recovered from him, he is not entitled to get benefit of bail as rigors of Section 37 of the NDPS Act would be attracted against him. The petitioner may abscond or involve in committing similar offences again, if extended benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

6. As per the allegations, the petitioner was found in conscious possession of commercial quantity of the aforementioned contraband on 26.01.2024. Though, the allegations levelled against the petitioner *prima facie* make out a case for commission of subject offences against him, 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 most 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.***

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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.

7. Reliance can also be placed upon ***Santosh Pawar Vs. State of Chhattishgarh & Anr., Criminal Appeal No.4883/2025***, 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.

8. 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, 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.

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9. 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.

10. 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***.

11. On analysing 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 more than two years and the trial is not likely to be concluded in near future as only one out of total twenty witnesses has been examined. 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. 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

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Aadhar card, and shall not change his mobile number(s) during the pendency of the trial.

12. 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.

07.05.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No