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

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**CRM-M No.26378 of 2026
Date of decision: 26.05.2026**

Tarsem Singh alias Soma

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. P.K.S. Phoolka, Advocate,
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The instant one is the third petition as filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") seeking regular bail in case arising out of FIR No.121 dated 19.07.2024 registered under Section 21(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') (Section 29 of NDPS Act added later on) at Police Station Canal Colony Bathinda, District Bathinda, Punjab, on the allegations that on 19.07.2024, he along

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with the co-accused Karanpreet Singh was apprehended by a police party and recovery of 01 Kg 05 grams of heroin was effected from him. Apart from, an amount of Rs.2,65,000/- was also recovered at his instance from his car. On the basis of disclosure statements suffered by the petitioner and co-accused, some other persons were nominated as co-accused.

2. It is argued by learned counsel for the petitioner that in one of his previous two petitions, he had made prayer for bail mainly on the ground of his health conditions which has worsened even more now. He is having severe pain in his hip joints due to the injuries sustained by him about five years back in accident. He had withdrawn his previous petition as he could not produce any material on record to show his health condition. He is not in a position to even walk. Even otherwise, he has been in continuous incarceration for a period of more than 01 year and 10 months. The chances of conclusion of trial in near future are bleak as only 02 out of 21 witnesses have been examined so far. No useful purpose would be served by his further incarceration. Each day spent by him in custody has furnished a new ground to him to seek concession of bail. His prolonged incarceration militates against his fundamental right of liberty as well as speedy trial. It is, therefore, argued that the petition deserves to be allowed.

3. Per contra, learned State counsel while relying upon the short

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reply as well as status report has submitted that as per the opinion given by the Medical Officer of Central Jail, Bathinda, though he is having complaint of bilateral hip joints, however, medicines have been prescribed from jail hospital and Orthopaedic opinion was advised for further management. His general condition is stable. It is argued by learned State counsel that the petition is not maintainable being successive petition. The allegations against the petitioner are serious in nature. It is, therefore, urged that the petition does not deserve to be allowed.

4. This Court has considered the rival submissions.

5. 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. The petitioner is in custody for a period of over 01 year and 10 months. The report of the Medical Officer of the concerned jail suggests that he is

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suffering from pain in bilateral hip joints and has been taken to hospital on different intervals of time. The trial is likely to take considerable time to conclude as 02 out of 21 prosecutin witnesses have been examined. 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

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Constitution and in such a situation, the constitutional principles must override the statutory embargo contained under Section 37 of the NDPS Act.

6. Reliance can also be placed upon the order dated 14.11.2025 passed by the Hon'ble Supreme Court in case titled as ***Santosh Pawar Vs. State of Chhattishgarh & Anr., Criminal Appeal No.4883/2025***, wherein it observed 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 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.

7. 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 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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8. In the case of ***Ismail Khan @ Pathan vs. State of Rajasthan Crminal 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.

9. 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***.

10. 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 more than 01 year and 10 months, the trial is not likely to be concluded in near future as 02 out of 21 prosecutin witnesses have been examined; 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.

11. In view of the above discussion, this Court is of the opinion that 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 learned trial Court/CJM/Duty Magistrate concerned 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.

12. 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.

26.05.2026	(MANISHA BATRA)
manju	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No