

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:019923



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CRM-M-28862-2025 (O&M)
Date of decision:10.02.2026

Harmandeep Singh @ Harman

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ruhani Chadha, Advocate for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. Instant petition has been filed by the petitioner seeking benefit of regular bail in case arising out of FIR No.15, dated 20.01.2024, registered under Sections 21-C, 23, 27-A and 29 of the NDPS (offence under Sections 212 and 216 IPC were added lateron), at Police Station Gate Hakima, District Amritsar.

2. As per the allegations, on 20.01.2024, on receipt of a secret information to the effect that the present petitioner along with co-accused Manjit Singh and Lovepreet Singh @ Love, had formed a gang and indulged in smuggling contraband via drones across the Indo Pak border fencing and supply the same in Amritsar City and its surrounding areas. It was also informed that at that very day also, the petitioner was intending to deliver

the contraband to some of the customers and was present on Chabal road Amritsar in an i20 car bearing registration No.PB-46-AH-5494. Believing the secret information to be true, a raiding party was formed, which reached at the informed place and apprehended the petitioner. Recovery of 02 kgs of heroin along with drug money to the tune of Rs.1,25,000/- from the dashboard of the car was effected from his conscious possession. The same was taken into custody by the police. The petitioner was formally arrested. Investigation now stands concluded and the petitioner is facing trial for commission of the aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He has remained in custody continuously since 20.01.2024 i.e. for a period of more than 02 years. There are no chances of conclusion of the trial in near future as not even a single prosecution witness has been examined so far. His further incarceration would not serve any useful purpose. Prolonged incarceration of the petitioner has furnished a ground to him for seeking concession of bail. He has clean antecedents. It is, therefore, argued that the petitioner deserves to be extended benefit of bail.

4. Status report and custody certificate have been filed by learned State counsel. She has argued that commercial quantity of contraband was recovered from the conscious possession of the petitioner. Allegations against him are serious in nature. Rigors of Section 37 of the NDPS Act are attracted in this case. There are chances of his absconding or committing similar offences if extended benefit of bail. It is, therefore, stressed that the petition does not deserve to be allowed.

5. This Court has heard rival submissions made by learned counsel for the parties.

6. It is well-settled law that the Court, while considering an application for grant of bail, has to keep certain factors in mind such as whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence, circumstances which are peculiar to the accused, likelihood of the offence being repeated, the nature and gravity of the accusation, severity of the punishment in the event of conviction, the danger of the accused absconding or fleeing if released on bail, and reasonable apprehension of the witnesses being threatened, etc. However, at the same time, the period of incarceration is also a relevant factor to be considered while deciding whether bail should be granted to an accused charged with an offence under the provisions of the NDPS Act. The twin conditions under Section 37 of the NDPS Act are to be satisfied. The rigors of Section 37 of the NDPS Act are attracted in this case as the accusations pertain to the recovery of commercial quantity of contraband from the petitioner.

7. In the instant case, contraband of commercial quantity was recovered from the petitioner. He has clean antecedents. The petitioner has remained in custody for a period of 02 years. None out of 09 prosecution witnesses have been examined by the prosecution till date. Obviously, the trial will take considerable time to conclude. It is true that grant of bail on account of delay in trial and long period of incarceration is to be considered in light of Section 37 of the NDPS Act. Reliance in this regard can be placed on the observations made by the 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 436A which is applicable to offences under the Act. It was also observed that the 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 bail was granted to the accused, who had been incarcerated for a period of almost two to three years and the trial was likely to take considerable time. 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 principle 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., Criminal Appeal No.4883/2025***, which is a recently pronounced verdict of Hon'ble Supreme Court observing 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 abovementioned case the Hon'ble Supreme Court had 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 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.

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

13. 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.

14. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

10.02.2026

harjeet

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

(MANISHA BATRA)
JUDGE