



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

202

CRM-M-28011-2026

Date of decision :22.05.2026

Date of uploading :22.05.2026

Sarabjit Singh

.....Petitioner

Versus

State Of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Taranjit Kaur, Advocate for the petitioner for
Mr. Navjot Singh, Advocate for the petitioner.

Mr. Jaypreet Singh, DAG, Punjab.

SUMEET GOEL, J. (ORAL)

1. Present second petition has been filed under Section 483 of BNSS for grant of regular bail to the petitioner in case bearing FIR No. 118 dated 25.05.2025 under Section 22, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 & Section 223 of BNS, 2023, registered at P.S. Bhawanigarh, District Sangrur.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

"Copy of original Rukka, "Jai Hind, SHO, Police Station Bhawanigarh," Today I SI alongwith Senior Constable Sukhchain Singh No. 93/Sang. Senior Constable Harmit Singh No. 652/Sang, Senior Constable Gurdhian Singh No. 1394/Sang, in government vehicle number PB 13 AR 6202 being driven by Constable Amandeep Singh No. 2423/Sang, in connection with routine checking duty regarding suspicious persons/suspicious vehicles, along with laptop and printer, were present at Bus Stand Gharachon. Then the time would around 06:00 P.M., at that time, a secret informer came and informed secretly in a hurry that Pappu Kumar, son of Kirat Kumar, resident of Kapial, and Sarabjit Singh, son of Shivji Ram, resident of Jhaneri, who bring intoxicating tablets and capsules and sell them in village Kapial, Retgarh, and surrounding villages, and today also, they



are coming from Sangrur side via Retgarh, Kapial in Alto car No. PB 11 AZ-6702, white in color, alongwith Sarabjit Singh, and are carrying intoxicating tablets and capsules. If barricading is done immediately at Jammu- Katra highway bridge, area Kapial, then a large quantity of intoxicating tablets and capsules can be recovered. The act of selling intoxicating tablets and capsules by the said Pappu Kumar and Sarabjit Singh fulfils ingredients of offense under Sections 22/61/85 of NDPS Act and 223 of BNS. On finding the information true and ustworthy, I, SI typed one Rukka against Pappu Kumar, son of Kirat Kumar, resident of Kapial, and Sarabjit Singh, son of Shivji Ram, resident of Jhaneri for commission of offenses u/s 22/61/85 NDPS Act and 223 BNS, and took out a print from the laptop, and handed over the same to Senior Constable Gurdhian Singh No. 1394/Sang; to get the case registered at the Police Station. The case be registered and number be informed. The Control Room Sangrur may also be informed. Separate report under Section 42 NDPS Act is being prepared. I, SI alongwith companion staff, proceed to Jammu-Katra highway bridge, area Kapial Today, At Bus Stand Gharachon, time approx. 06:15 P.M., Sd/- Mehar Singh, ASI In-charge, Police Post Gharachon, Police Station Bhawanigarh, Dated: 25-05-2025. On the basis of above Rukka, the FIR under offenses mentioned above, against Pappu Kumar, son of Kirat Kumar, resident of Kapial, and Sarabjit Singh, son of Shivji Ram, resident of Jhaneri, was registered and formal investigation initiated. Entry was made in the record. Control Room In-charge is being informed via email. FIR along with original statement is being handed over to Senior Constable Gurdhian Singh No. 1394/Sangrur, and Investigating Officer SI Mehar Singh No. 484/Sangrur, Police Station Bhawanigarh, is being sent to the spot.”

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 25.05.2025. Learned counsel for the petitioner has further submitted that the mandatory provisions of the NDPS Act have not been complied with, and thus, the prosecution case suffers from inherent defects. Learned counsel for the petitioner has iterated that the trial is delayed and the liability thereof cannot be fastened upon the petitioner. Learned counsel has further iterated that the petitioner has suffered incarceration for more than 11 months. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 21.05.2026 in Court, which is taken on record.



5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 25.05.2025 whereinafter investigation was carried out and challan was presented on 15.11.2025. Total 13 prosecution witnesses have been cited and out of which two have been examined partly till date. The rival contentions raised at Bar give rise to debatable issues that shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, *lest* it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1 As per custody certificate dated 21.05.2026 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 11 months and 22 days & is shown to be involved in other case. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586***; a Division Bench judgment of the Hon'ble Calcutta High Court in case of ***Sridhar Das v. State, 1998 (2) RCR (Criminal) 477*** & judgments of this Court in ***CRM-M No.38822-2022*** titled as ***Akhilesh***



Singh v. State of Haryana, decided on 29.11.2021, and ***Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191.***

6.2 This Court in a judgment titled as ***Kulwinder versus State of Punjab*** passed in ***CRM-M-64074-2024*** (2025:PHHC:002695); after relying upon the *ratio decidendi* of the judgments of the Hon'ble Supreme Court in Hussainara Khatoon vs. Home Secy., State of Bihar (1980) 1 SCC 81; Abdul Rehman Antulay vs R.S. Nayak (1992) 1 SCC 225; Javed Gulam Nabi Shaikh vs. State of Maharashtra and another, 2024(3) RCR (Criminal) 494; Mohd Muslim @ Hussain vs. State (NCT of Delhi) reported as 2023 INSC 311; Criminal Appeal No.245/2020 dated 07.02.2020 titled as "Chitta Biswas Alias Subhas vs. The State of West Bengal"; "Nitish Adhikary @ Bapan vs. The State of West Bengal", Special Leave to Appeal (Crl.) No.5530-2022 dated 22.08.2022 titled as "Mohammad Salman Hanif Shaikh vs. The State of Gujarat"; Criminal Appeal No.1169 of 2022 dated 05.08.2022 titled as Gopal Krishna Patra @ Gopalrusma vs. Union of India, and Ankur Chaudhary vs. State of Madhya Pradesh, 2024(4) RCR (Criminal) 172; has held, thus:

"7.8. The right to a speedy and expeditious trial is not only a vital safeguard to prevent undue and oppressive incarceration; to mitigate anxiety and concern accompanying the accusation as well as to curtail any impairment in the ability of an accused to defend himself, but there is an overarching societal interest paving way for a speedy trial. This right has been repeatedly actuated in the recent past and the ratio decidendi of the above-referred to Supreme Court's judgments have laid down a series of decisions opening up new vistas of fundamental rights. The concept of speedy trial is amalgamated into the Article 21 as an essential part of the fundamental right to life and liberty, guaranteed and preserved under our Constitution. The right to speedy trial begins with the actual restraint imposed at the time of the arrest of the accused and consequent incarceration which continues at all stages, namely, the stage of investigation, inquiry, trial, appeal and revision so that any possible prejudice that may result due to impermissible and avoidable delay since the time of the commission of the offence till the criminal proceedings consummate into a finality,



could be averted. The speedy trial, early hearing and quick disposal are sine qua non of criminal jurisprudence. The overcrowded Court-dockets, the heavy volume of work and the resultant pressure on the prosecution and the Police, indubitably keeps the entire criminal jurisprudential mechanism under stress and strain. However, this cannot be an excuse for keeping the sword of Damocles hanging on the accused for an indefinite period of time. It does not serve any credit to the criminal justice system, rather it makes for a sad state of affairs. The guarantee of a speedy trial is intended to avoid oppression and prevent delay by imposing on the Court and the prosecution an obligation to proceed with the trial with a reasonable dispatch. The guarantee serves a threefold purpose. Firstly, it protects the accused against oppressive pre-trial imprisonment; secondly, it relieves the accused of the anxiety and public suspicion due to unresolved criminal charges and lastly, it protects against the risk that evidence will be lost or memories dimmed by the passage of time, thus, impairing the ability of the accused to defend himself. It goes without saying that the consequences of pre-trial detention are grave. Accused, presumed innocent, till proven otherwise, are subjected to psychological and physical deprivations of jail-life, usually under onerous conditions. Equally important, the burden of detention of such an accused frequently falls heavily on the innocent members of his family.

There is yet another aspect of the matter which deserves consideration at this stage. The allegations in the present case relate to accused being involved in an FIR relating to commercial quantity of contraband under the NDPS Act, 1985. While considering a bail petition in a case involving commercial quantity, the Court has to keep in mind the rigours enumerated under Section 37 of NDPS Act, 1985 which mandates that Courts can grant bail to an accused only after hearing the public prosecutor and after having satisfied itself of twin conditions which are reasonable grounds for believing that the accused is not guilty of the offence charged/alleged and that, he is not likely to commit any offence while on bail. The stringent rigours of Section 37 of the NDPS Act, 1985 must be meticulously scrutinized against the backdrop of accused's fundamental right to a speedy trial. The right to life and personal liberty cannot be rendered nugatory by unwarranted delays in the judicial process, particularly where such delay(s) is neither attributable to the accused nor justified at the end of the prosecution by cogent reasons. An individual cannot be kept behind bars for an inordinate period of time by taking refuge in rigours laid down in Section 37 of the NDPS Act, 1985. The legislature in its wisdom, in order to ensure speedy and timely disposal of the cases under the Act, has provided for the constitution of special Courts under Section 36-A of the Act. However, this Court cannot turn Nelson's eye to the protracted delays and systematic inefficiency that frustrate this legislative purpose. A Court of law is duty-bound to ensure that it does not become complicit in violation of an individual's fundamental rights, notwithstanding anything contained in a statute. While dealing with bail petition in a case governed by the rigours of Section 37 of the NDPS Act, 1985, the Court must strike a judicious balance between the legislative intent to curb the menace of drugs and the sacrosanct right of the accused to a fair and expeditious trial. Prolonged incarceration, without justifiable cause, risks transforming pre-trial detention into punitive imprisonment, an outcome antithetical to the principle of justice and equity.

Ergo, the unequivocal inference is that where the trial has failed to conclude within a reasonable time, resulting in prolonged incarceration, it militates against the precious fundamental rights of life and liberty granted under the law and, as such, conditional liberty



overriding the statutory embargo created under Section 37 of the NDPS Act, 1985 ought to be considered as per facts of a given case. In other words, grant of bail in a case pertaining to commercial quantity, on the ground of undue delay in trial, cannot be said to be fettered by Section 37 of the NDPS Act, 1985.”

6.3 Indubitably, the present petition is the 2nd attempt by the petitioner to secure regular bail. The last bail plea preferred by the petitioner was dismissed as withdrawn on 22.01.2026. Keeping in view the entirety of the factual *milieu* of the case in hand, especially extended incarceration of the petitioner and no substantial progress in trial, this Court is inclined to favourably consider the instant plea for bail. A profitable reference, in this regard, can be made to a judgment of this Court passed in ***CRA-S-2332-2023*** titled as ***Rafiq Khan versus State of Haryana and another***; relevant whereof reads as under:

“10. As an epilogue to the above discussion, the following principles emerge:

I. Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III. For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV. No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V. In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”



Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.
- (viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after his being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.
10. Nothing said hereinabove shall be construed as an expression of
opinion on the merits of the case.

22.05.2026
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(SUMEET GOEL)
JUDGE

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