

2026.PHHC.009450



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CRM-M-34888-2025

Date of decision: 22nd January, 2026

Gurwinder Singh @ Kalu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Harnaaz Kaur Hundal, Advocate for the petitioner.

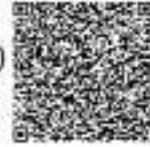
Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

The instant one is the third petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 01 dated 04.01.2024 registered under Sections 22(c), 22(b) and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') and Sections 482 and 411 of IPC at Police Station Bhogpur, District Jalandhar Rural. His first petition bearing CRM-M-12834-2024 had been dismissed as withdrawn as on 16.10.2024 and second petition CRM-M-3135-2025 had been dismissed vide order dated 25.03.2025.

2. As per the allegations, on 04.01.2024, the petitioner along with co-accused Gurdev Singh @ Debi was apprehended on the basis of suspicion

2026.PHHC.009450



while he was riding a bike. On conducting search, 153 tablets of Etizolam were recovered from his conscious possession, whereas 173 tablets of Tramadol Hydrochloride were recovered from the conscious possession of the co-accused. Both of them were formally arrested. The recovered contraband was taken into possession. Investigation now stands completed and 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 has been planted upon him. He is in custody for a period of over two years and eighteen days. Even after dismissal of his previous petition, a period of about ten months has been passed. Trial has not progressed much further as only six prosecution witnesses have been examined so far. It will take considerable time to conclude. No useful purpose would be served by keeping him in custody anymore. It is also submitted that each day spent by the petitioner in custody can also be considered to be a ground for granting benefit of bail to him. It is, thus, argued that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that the petition is not maintainable the same being successive bail petition. His second petition has been dismissed on merits. There is no drastic and substantive change in the circumstances. There are chances of petitioner's absconding or committing similar offences if extended benefit of bail. He has criminal antecedents. It is, therefore, stressed that the petition does not deserve to be

2026.PHHC.009450



allowed.

5. This Court has heard learned counsel for the parties at considerable length.

6. The petitioner was found to be in conscious possession of commercial quantity of contraband. The allegations make out a prima facie case for commission of subject offences against him. There is no possibility of conclusion of trial in near future as a substantial number of witnesses are yet to be examined. The petitioner is in custody for a period of over two years. This factor, in the opinion of this Court, is a ground to move for bail afresh. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time, and the bail application can be considered on its own merits even if it is filed repeatedly. It has also been held that every day spent in custody can provide a new cause of action for filing a bail application under certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the right of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since settled proposition of law is that detention prior to trial should not become punitive. It is also well settled proposition of law that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such cases, when there is delay in conclusion of trial without there being any fault on the part of the accused, he becomes entitled to be released on bail. Since

2026.PHHC.009450



the trial of this case, apparently and evidently is shown to have been delayed, as such, this Court is of the considered opinion that no fruitful purpose would be served by detaining the petitioner in custody. It is also well settled preposition of law that the bail is the rule and jail is an exception and that pre-trial incarceration should not be a replica of post-conviction sentence. Keeping in view the above facts and circumstances but without meaning to make any comment on the merits of the case, lest it prejudice the case of either of the parties, the petition is allowed, and the petitioner is ordered to be released on bail subject to his furnishing personal as well as surety bonds of two sureties to the satisfaction of the learned Chief Judicial Magistrate/trial Court/Duty Magistrate concerned.

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

[MANISHA BATRA]
JUDGE

22nd January, 2026
Parveen Sharma

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |