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

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CRM-M-35716-2025

Date of decision: 27th January, 2026

Anil Paswan @ Anil Pasawan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Angad Parmar, Advocate for the petitioner.
Mr. Roshandeep Singh, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been 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. 236 dated 28.08.2024 registered under Sections 20(c) of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') (Section 29 of NDPS Act and Section 317(2) of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') added later on) at Police Station Phillaur, District Jalandhar.

2. As per the allegations, on 28.08.2024, recovery of 1 kg and 50 grams of *charas* was effected from the conscious possession of the present petitioner and the co-accused, when they were apprehended by the police officials while riding on a motor bike. The recovered contraband was taken into possession. The petitioner and co-accused were formally arrested. Investigation now stands concluded.

3. It is argued by learned counsel for the petitioner that he has been

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falsely implicated in this case. No recovery has been effected from his conscious possession. The recovery was allegedly effected from the bag in personal possession of co-accused Rekha. He was merely a pillion rider and had no knowledge about the co-accused being in possession of contraband. He is in custody since long. Trial will take considerable time to conclude. He has clean antecedents. The alleged recovery is marginally above than commercial quantity. No useful purpose would be served by detaining him in custody. It is, therefore, argued that the petition deserves to be allowed.

4. Status report and custody certificate have been filed by respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations as levelled against the petitioner and the fact that the commercial quantity of contraband has been recovered from the petitioner and the co-accused as well as the fact that the rigors of Section 37 of the NDPS Act are attracted in the present case, the petitioner does not deserve to be extended the benefit of bail.

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

6. The petitioner along with the co-accused is alleged to have been found in conscious possession of contraband which is marginally above the commercial quantity. He is in custody for a period of about one year and five months. He does not have any criminal antecedents. There are bleak chances of conclusion of the trial in near future. 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

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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 Constitution 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 of India held that appellant who was being prosecuted for

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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 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.

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 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.

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 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 one year and five months, the trial is not likely to be concluded in near future as all the prosecution witnesses are yet to be examined; the continued detention of the

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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.

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 Aadhaar 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 already been decided, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

27th January, 2026
Parveen Sharma

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