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

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CRM-M-37973-2025

Date of decision: 14th January, 2026

Prem Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Karandeep Singh Sidhu, Advocate for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

The instant one is the second 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. 18 dated 08.02.2024 registered under Section 21 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') at Police Station Special Task Force, District STF Wing (Mohali), on the allegations that on 08.02.2024, the petitioner was apprehended on the basis of a secret information and 500 grams of heroin was recovered from his conscious possession. He was formally arrested. Investigation now stands completed and the petitioner is facing trial for commission of aforementioned offences. The previous petition as filed by him has been dismissed as withdrawn on 22.07.2025.

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2. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case and a false recovery has been planted upon him. The mandatory provisions of NDPS Act have not been complied with by the Investigating Agency. Infact, he was picked up from his house. He is on bail in another case pending against him. His involvement in another case cannot be considered to be a reason for denying benefit of bail to him. Trial is likely to take time to conclude as only 04 out of 14 prosecution witnesses have been examined so far. His further incarceration would not serve any useful purpose. With these broad submissions, it is urged that the petition deserves to be allowed.

3. Status report and custody certificate have been filed by respondent-State. Learned State counsel has argued that, in view of the criminal antecedents of the petitioner, the recovery of commercial quantity of contraband from him, and the nature of the allegations levelled against him, coupled with the fact that the rigors of Section 37 of the NDPS Act are attracted in this case, the petitioner does not deserve the concession of bail. Therefore, it is stressed that the petition does not deserve to be allowed.

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

5. The petitioner has been in custody for a period of about two years i.e. exactly for a period of one year, eleven months, and six days. The trial is not likely to be concluded in near future as only 04 out of 14 prosecution

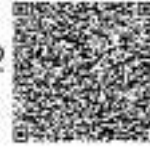
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witnesses have been examined and there is nothing on record to show that delay caused in conclusion of the trial is attributed to the petitioner. It is well settled proposition of law that grant of bail on account of delay in trial and long period 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 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 ***Santosh Pawar Vs. State of Chhattishgarh & Anr., Criminal Appeal No.4883/2025***, which is a recently

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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 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.

8. 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.

9. 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***

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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 01 year, 11 months and 06 days, the trial is not likely to be concluded in near future as many of the prosecution witnesses are yet to be 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 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.

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.

13. Since the main petition has already been decided, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

14th January, 2026

<i>Parveen Sharma</i>	<i>1. Whether speaking/ reasoned</i>	:	<i>Yes / No</i>
	<i>2. Whether reportable</i>	:	<i>Yes / No</i>