

In the High Court of Punjab and Haryana, at Chandigarh**Criminal Misc. No. M-39669 of 2025 (O&M)****Date of Decision: 06.02.2026**

Namdev Singh alias Naamdev Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Sarabjeet Singh Chahal and Mr. Prabhpreet Singh,
Advocates, for the petitioner(s).

Mr. J.S.Thind, Deputy Advocate General,
Punjab, for the respondent.

Surya Partap Singh, J.**CRM-5180-2026**

1. This is an application seeking for placing on record certain documents. For the reasons stated in the application, the same is hereby allowed and the documents annexed with the application are taken on record.

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2. This fourth petition for bail has been filed with regard to a case arising out of FIR No. 32 dated 17.02.2024, Police Station Gharinda, District Amritsar, for the commission of offence punishable under Sections 21, 25, 22A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter being referred as “the NDPS Act” only.

3. Briefly stating the facts emerging from the record are that the

above mentioned FIR came into being in view of report submitted Sub Inspector 'Jagjit Singh'. It was reported by the above named police officer that on 17.02.2024 when he was leading a team of police officials deputed for patrolling duty near village Hardo Rattan the above mentioned team spotted a white colour Activa PB-02-ER-0594 carrying two persons. According to above said police officer, the moment, the occupants of above mentioned vehicle noticed the presence of police party on their way ahead, the driver of the two wheeler suddenly tried to take a U-turn and in his above mentioned endeavour the two-wheeler slipped and they fell down on the ground. As per above named police officer, on the basis of suspicion when they were apprehended they disclosed their names as 'Bobby' and 'Namdev'. It was further reported that 'Bobby' was driving the two wheeler and 'Namdev' was pillion rider. As per prosecution during search of the person of 'Namdev' two packets containing 'Heroin' weighing 525 and 500 grams, respectively, were recovered.

4. It is the case of the prosecution that on recovery of above mentioned contraband necessary formalities with regard to seizure and sealing of contraband, filing of FIR and arrest of accused were performed and further investigation taken up.

5. Heard.

6. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that he has been falsely implicated in the present case. According to learned counsel for the petitioner, the petitioner has clean antecedents who has never been prosecuted for the offence under the NDPS Act in the past.

7. According to learned counsel for the petitioner the petitioner has already suffered prolonged incarceration for being in custody for a period of more than one year and eight months, and that the trial is taking place at snail's pace as not even a single witness has been examined, so far. While alleging that the prolong incarceration makes the petitioner eligible to claim relaxation in twin conditions enshrined under Section-37 of NDPS Act, the learned counsel for the petitioner has urged for benefit of bail for the petitioner. The learned counsel for the petitioner in support of his argument has referred to the observations made by the Hon'ble Supreme Court of India in the case of 'Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal', Special Leave to Appeal (Crl.) Nos. 12788-2023.

8. Per contra, the learned State counsel has argued that in the present case the quantity of contraband recovered from the possession of petitioner comes within the ambit of commercial quantity, and that unless the twin conditions enshrined under Section-37 of NDPS Act are satisfied, the benefit of bail cannot be afforded to the petitioner. According to learned State counsel merely on the ground of long incarceration the conditions under Section-37 of NDPS Act should not be relaxed.

9. In addition to above the learned State counsel has also relied upon the principles of law laid down by the Hon'ble Supreme Court of India in the case of The State (NCT of Delhi) Narcotics Control Bureau v. Lokesh Chadha, (2021) 5 SCC 724, wherein it has been held that no person accused for offences involving a commercial quantity shall be released on bail, where the public prosecutor opposes the application, unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty

of such offence and that he is not likely to commit any offence while on bail.

10. The record has been perused carefully.

11. As far as the principles governing the benefit of bail in a case related to NDPS Act are concerned, the principles of law laid down by the Hon'ble Supreme Court in the case of 'Mohd. Muslim @ Hussain v. State' (NCT of Delhi)', (2023) 18 Supreme Court Cases 166 are also relevant, wherein the Hon'ble Supreme Court has 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 which is applicable to offences under the Act.

12. In this regard it is also relevant to mention here that the Hon'ble Supreme Court of India in the case of 'Man Mandal 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 1109, extended the benefit of bail to the accused, who had been incarcerated for a period of almost 2-3 years and the trial was likely to take considerable time. The above-mentioned benefit has been given 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 principles must override the statutory embargo contained under Section-37 of the NDPS Act.

13. In addition to above, in a recently pronounced verdict in the case of 'Santosh Pawar Vs. State of Chhattisgarh & Another' Criminal Appeal No.4883/2025 decided on 14.11.2025, the Hon'ble Supreme Court observed 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.

14. 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.

15. In the case of 'Ismail Khan @ Pathan vs. State of Rajasthan' Criminal Appeal No.4911 of 2025 decided on 18.11.2025 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 two years and eight months of the accused.

16. The similar benefit has been taken in another appeal i.e. 'Ebrahim @ Ibrahim SK vs. The State of West Bengal' Special Leave Petition (Criminal) No.15699 of 2025 decided on 14.11.2025 and in the case of 'Pamesh Arora vs. UT Chandigarh' Criminal Appeal No.4872 of 2025 decided on 14.11.2025.

17. If the facts and circumstances of the present case are analyzed in the light of above-mentioned principles of law, it transpires that:-

- i) that the petitioner has already suffered prolonged incarceration for a period of more than one year and eight months;
- ii) that after the dismissal of third bail petition, the benefit of bail has been accorded to co-accused;
- iii) that the trial is progressing at a very slow pace as not even a single witness has been examined so far;
- iv) that there are very strong points raising fingers against the manner in which the investigation has been conducted, as despite information in advance the compliance of Section 42 of NDPS Act was not made;
- v) that the trial is not likely to be concluded in near future;
- vi) that nothing is left to be recovered from the possession of petitioner;
- vii) that detention of petitioner in judicial lock-up is not likely to serve any purpose;
- viii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and
- ix) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

18.

To elucidate further, this Court is conscious of the basic and

fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article-21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon'ble Apex court in Balwinder Singh versus State of Punjab and Another 2024 SCC Online SC 4354.

19. If the cumulative effect of all the above mentioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

20. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However, the above said concession shall be subject to following conditions:-

- a) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority;
- b) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the conclusion of trial; and
- c) that the petitioner shall not leave India without prior permission of the trial Court.

21. It is, however, made clear that any observation made here-in-above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(Surya Partap Singh)
Judge

February 06, 2026
“DK”

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