

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:002918



220

CRM-M-41797-2025 (O&M)
Date of decision:13.01.2026

Subhash @ Bhopa

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikram Rana, Advocate for the petitioner.

Ms. Himani Arora, DAG, Haryana.

...

Manisha Batra, J. (Oral).

1. The present one is the fourth petition as filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking concession of regular bail in case bearing FIR No.244 dated 18.04.2023, registered under Sections 22(C) and 29 of the NDPS Act, at Police Station Mujesar, District Faridabad.

2. As per the allegations, on 18.04.2023, on receipt of secret information to the effect that the petitioner was engaged in business of selling injections containing intoxicants and could be apprehended along with the same, if raid was conducted, a barricade was laid at the informed place. The petitioner was apprehended and recovery of 03 sealed packets containing 05 injections having intoxicating substance had been effected from his conscious possession. He failed to produce any license or permit for

retaining the same. Recovered injections were taken into custody. He was formally arrested. Investigation now stands completed and the petitioner is facing trial for commission of the 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. Ever since the date of dismissal of the third petition as filed by him, period of more than 08 months has expired. The trial is likely to take considerable time to conclude as only 07 prosecution witnesses have been examined so far. His involvement in other cases cannot be considered to be a reason for denying benefit of bail to him. With these broad submissions, it is urged that he deserves to be released on bail.

4. Status report and custody certificate have been filed. It is argued by learned State counsel that keeping in view the gravity of the allegations as levelled against the petitioner, the fact that commercial quantity of contraband was recovered from him and rigors of Section 37 of the NDPS Act are attracted in this case, he does not deserve to be extended the benefit of bail.

5. This Court has heard the rival submissions made by learned counsel for the parties.

6. The petitioner is alleged to have been found in conscious possession of commercial quantity of intoxicating injections which as per the FSL report were containing Buprenorphine salt. He is in custody over a period of 02 years, 08 months and 25 days. Each day spent by him in custody creates a new ground for seeking benefit of bail to him. The trial will obviously take time to conclude as only 07 prosecution witnesses have been

examined so far. 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 Rabdi 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 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 abovementioned 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.

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 taken 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. So far as the question of maintainability of the petition is concerned, it may be mentioned that an accused has a right to make successive applications for grant of bail, and it is the duty of the Court, while

entertaining such a subsequent bail application, to consider the reasons and grounds on which the earlier bail petition was rejected. The fresh grounds which persuade the Court to take a view different from the one taken in the earlier application are also required to be recorded. Reference in this regard can be made to *Prasad Shrikant Purohit v. State of Maharashtra (2018) 11 SCC 458*, wherein it was so observed. All the previous petitions as filed by the petitioner were dismissed as withdrawn. Each day spent by the petitioner in custody furnishes a new cause of action for seeking bail. 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 02 years, 08 months and 25 days, the trial is not likely to be concluded in near future as only 07 prosecution witnesses have been 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.

12. In view of the above discussion, this Court is of the considered opinion that a case is made out for grant of bail to the petitioner. 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 extent of two sureties in the like amount each, 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 been allowed, pending application, if any, is rendered infructuous.

13.01.2026

harjeet

(MANISHA BATRA)
JUDGE

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