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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-45391-2025

Date of decision: 22nd January, 2026

Gagandeep Singh @ Gagan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Damanjit Singh Sandhu, Advocate for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

Prayer in this third petition has been made for grant of regular bail by the petitioner in case arising out of FIR No. 06 dated 24.01.2023 registered under Section 21 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') at Police Station Kathgarh, District SBS Nagar, Punjab. He is facing trial for commission of aforementioned offences on the allegations that he was found in conscious possession of 01 kg of heroin on 24.01.2023. His first bail petition bearing CRM-M-27264-2024 had been dismissed on 30.09.2024 by this Court by making following observations:-

“The petitioner was apprehended by the police party on 24.01.2024 and recovery of 01 kg. of heroin was effected from him, which falls under the commercial quantity. Hence, the rigors of Section 37 of the NDSP Act

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would certainly apply in this case. As regards the arguments advanced by learned counsel for the petitioner with regard to non-compliance of the statutory provisions of the Act during investigation by the police party, the same have direct bearing on the merits of the case, which cannot be looked into at this stage while deciding a bail petition filed under Section 439 of Cr.P.C. There is nothing on record to show that there would be any undue delay in conclusion of trial as out of total 12 prosecution witnesses, 09 witnesses have since been examined. The apprehension expressed by learned State counsel that if extended benefit of bail, the petitioner may indulge in similar offences, cannot be stated to be unfounded. Keeping in view the discussion as made above, the quantity of recovered contraband, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be granted benefit of regular bail, at this stage. Hence, the petition is dismissed.”

2. It is argued by learned counsel for the petitioner that ever since the dismissal of his previous petition, the trial has not progressed much since the case is still fixed for producing prosecution evidence and the investigating officer of the case namely Parminder Singh, Inspector, is not coming forward to get recorded his statement on account of the fact that he is involved in some other case. He has already undergone a period of two years, eleven months, and twenty two days of incarceration and this ground alone has made himself entitled to seek benefit of bail afresh. No useful purpose is going to be served by keeping him in custody anymore. His prolonged incarceration is militating against the provisions of Article 21 of the Constitution of India. Therefore, it is urged that the petition deserves to be allowed.

3. *Per contra*, learned State counsel while relying upon the contents of the status report and placing on record the custody certificate, has submitted

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that there are serious allegations against the petitioner. Only one witness remains to be examined. His previous two petitions had been dismissed. There is no drastic change in the circumstances. It is, therefore, stressed that the petition does not deserve to be allowed.

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

5. Undoubtedly, this is the successive bail petition filed by the petitioner. His first petition had been dismissed on merits on 30.09.2024 and second petition had been dismissed as withdrawn as on 28.04.2025. However, even till date the prosecution evidence has not been closed. Learned State counsel has not controverted the fact that one witness is still remained to be examined. 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***

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(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 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 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

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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 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***.

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 two years, eleven months and twenty-nine days; trial is likely to take time; 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 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

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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 Aadhar card, and shall not change his mobile number(s) during the pendency of the trial.

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

22nd January, 2026
Parveen Sharma

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