

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:016464



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CRM-M-47253-2025 (O&M)
Date of decision:04.02.2026

Sahil Gill

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. J.S. Sandhu, Advocate for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

...

Manisha Batra, J. (Oral).

Instant petition has been filed by the petitioner for grant of regular bail in case arising out of FIR No.04, dated 09.01.2024, registered under Sections 21-C and 29 of the NDPS Act, at Police Station STF Mohali, District Amritsar.

2. As per the allegations, on 09.01.2024, on receipt of a secret information to the effect that the petitioner along with co-accused Gopi were indulged in the business of selling heroin and on that very day also, he was present in front of Kanwar Farm along with large quantity of contraband and could be apprehended, if a raid was conducted, a police party was immediately formed, which reached at the informed place and apprehended the petitioner along with co-accused Gabriel @ Gabby, whereas Gopi had managed to flee. On conducting search, 400 grams of heroin was recovered

from the right pocket of the pant of the petitioner, whereas 300 grams of heroin was recovered from the conscious possession of co-accused Gabriel @ Gabby. The car in which the petitioner and co-accused were riding had also been taken into possession, which was shown to be sold to co-accused Sandeep @ Seepa with the registered owner, who too was nominated as an additional accused. Investigation qua the present petitioner and other arrested accused stands concluded.

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. The mandatory provisions of the NDPS Act had not been complied with at the time of effecting the alleged recovery. He is in custody for a period of 02 years and 22 days. There are no chances of conclusion of the trial in near future as still 10 prosecution witnesses remain to be examined. His further incarceration would not serve any useful purpose. He is not involved in any other case of similar nature. It is, thus, argued that he deserves to be extended the benefit of bail.

4. Per contra, learned State counsel while relying upon the pleas as taken in the status report has argued that keeping in view the gravity of the allegations as levelled against the petitioner, 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 alongwith co-accused is alleged to have been found in conscious possession of commercial quantity of contraband. The allegations make out a *prima facie* case for commission of the subject

offence against him. He is in custody for a period of 02 years and 22 days. The chances of conclusion of trial are bleak as a substantive number of witnesses is yet to be examined. He has clean antecedents. 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 Live Law (SC) 533***, 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. 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 and 22 days, the trial is not likely to be concluded in near future as 10 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.

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 Aadhar 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.

04.02.2026

harjeet

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No

(MANISHA BATRA)
JUDGE