



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

216

CRM-M No.46985 of 2025 (O&M)
Date of Decision: 28.01.2026

Samuel @ Sami @ Sam

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

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

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 21 (C), of Narcotic Drugs & Psychotropic Substances Act, 1985, hereinafter being referred to as NDPS Act', [Section 27/29 of NDPS Act added later on vide DDR No.52 dated 03.01.2025], the FIR No.04 dated 02.01.2025, has been lodged in Police Station City Malout, District Sri Muktsar Sahib. The petitioner has been arrested in the above mentioned case as an accused. Since the petitioner is in custody, he has filed the present petition for the benefit of bail. This is first petition for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being at the instance of 'ASI Prabhjot, who had reported that on 02.01.2025 when a police party headed by him was present near the main gate of cotton market, in discharge of patrolling duty, 4 persons riding on



two wheelers were spotted. According to above named police officer when the above said persons noticed the presence of police party they tried to escape abruptly. In view of above mentioned suspicious behaviour of abovesaid persons, they were apprehended, who disclosed their names as 'Savtaj Bhatti', 'Jashan', 'Gaurav Kumar' and 'Avinash'. It has been further alleged by the prosecution that while complying with the necessary instructions enshrined under NDPS Act, when search of the body of above said persons was undertaken 260 grams of 'heroin' kept in a transparent packet was recovered.

3. It is the case of the prosecution that on recovery of above mentioned contraband requisite formalities with regard to seizure and sealing of contraband, slapping of FIR and formal arrest of petitioner were completed and further investigation undertaken.

4. The learned State Counsel has filed custody certificate of the petitioner and reply, by way of affidavit of Deputy Superintendent of Police Sub Division Malout. The same be taken on record.

5. Heard.

6. It has been contended by learned counsel for the petitioner that 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 nothing has been recovered from the possession of petitioner, and that he has been simply implicated in the present case on the basis of nomination by co-accused in his disclosure statement. It has also been contended by learned counsel for the petitioner that in the present case the petitioner has already suffered prolonged incarceration for



being in custody for a period of more than 1 year and 19 days, and that nothing is left to be recovered from possession of petitioner and therefore, detention of petitioner is not likely to serve any purpose.

7. Per contra, the learned State counsel has contented that recovery of contraband in the present case, from the possession of petitioner, comes within the ambit of commercial quantity and therefore, without satisfying the rigors enshrined under Section-37 of NDPS Act the petitioner cannot claim the benefit of bail. According to learned State counsel, petitioner has long history of involvement in criminal cases and in the given fact-situation, the petitioner is not entitled for the benefit of bail.

8. In support of his arguments 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 of 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.

9. The record has been perused carefully.

10. 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 of India 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.

11. In this regard it is also relevant to mention here that the Hon'ble Supreme Court of India in the case of '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 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.

12. In addition to above, in a recently pronounced verdict in the case of 'Santosh Pawar Vs. State of Chhattishgarh & Anr.' Criminal Appeal No.4883/2025, the Hon'ble Supreme Court of India has observed 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.

13. 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.

14. 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.

15. 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.

16. In the case of ‘Shreyansh Jhabak Vs. The State of Chhattisgarh’, 2022(3) RCR (Criminal) 910’, the Hon’ble Supreme Court of India awarded the benefit of bail to an accused facing trial under NDPS Act against whom except the statement of co-accused there was no other evidence. Similar is the situation in the case in hand.

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 is already in custody for a period of more



than 1 year and 9 days;

- ii) that nothing is left to be recovered from the possession of petitioner;
- iii) that the only evidence available against the petitioner is the disclosure statement suffered by the co-accused, who was already in police custody, at the time of recording of statement. Thus there is a big question mark with regard to credibility and admissibility in evidence, of abovesaid disclosure/confessional statement;
- iv) that the trial is taking place at a slow pace as out of 39 only 1 witness has been examined so far;
- v) that the trial is not likely to be concluded in near future;
- vi) that detention of petitioner in judicial lock-up is not likely to serve any purpose;
- vii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- viii) 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 deal with similarly situation the guiding principles have been laid down in the case of 'Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence' 2018(3) RCR (Criminal) 954, wherein the



Hon'ble Supreme Court of India held that the disclosure statement of co-accused is inadmissible against another accused, as the disclosure statement is not a substantive piece of evidence against other accused.

19. Similar principle has been laid down by the Hon'ble Supreme Court of India in the case of 'Preet Kamal Vs. State of Punjab', 2018(4) RCR (Criminal) 938, wherein it has been held that the disclosure statement of an accused can be used only against the person making the same, and not against the co-accused.

20. In the present case, the principles of law laid down by the Hon'ble Supreme Court in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, are also relevant, wherein it has been observed that *"a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but*



even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

21. Recently, in the case of ‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has observed that *“if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”*. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that *“delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”*.

22. Therefore, 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.

23. If the cumulative effect of all the abovementioned factors, in-



volved 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.

24. 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 his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However, the abovesaid concession shall be subject to following conditions:-

- (i) 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.
- (ii) 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 final decision of the trial; and
- (iii) that the petitioner shall not leave India without prior permission of the trial Court.

(SURYA PARTAP SINGH)
JUDGE

28.01.2026
Manoj Bhutani

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