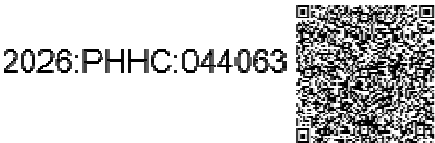


IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH



CRM-M-65188-2025 (O&M)

Harjinder Singh @ Kaka

...Petitioner

Versus

State of Haryana

...Respondent

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	19.03.2026
2	The date when the judgment is pronounced	23.03.2026
3	The date when the judgment is uploaded on the website	23.03.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Davneet Sangwan, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J.

1. The instant one is the second petition that has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to him in case arising out of FIR No. 422 dated 03.09.2024, registered under Sections 22(C) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Sadar Yamuna Nagar, District Yamuna Nagar. His previous petition was dismissed as withdrawn on 15.07.2025.

2. Brief facts of the case relevant for the disposal of the present petition are that on 02.09.2024, on the basis of a secret information, the petitioner and co-accused Satvinder Singh @ Sati, while coming on a motorcycle bearing registration number HR-51-3261, were apprehended by a police party and recovery of 14940 intoxicant tablets of Lomotil containing Diphenoxylate and 360 intoxicant capsules containing Tramadol was effected from their conscious possession. Since they could not produce any valid license or permit to keep in their possession the recovered drugs, there were formally arrested at the spot. The recovered contraband and the said motorcycle were taken into possession by the police. During interrogation, the petitioner and co-accused disclosed that they had procured the recovered contraband from co-accused Ashish @ Akhil and Dinesh Kumar, who were also nominated as such. Some other persons were also nominated subsequently and arrested in this case. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. A false recovery was planted upon him and the co-accused. He has clean antecedents. He is in custody since 03.09.2024. Investigation has since been completed and challan has been filed. Conclusion of trial is likely to take time as no prosecution witness out of total forty witnesses has been examined so far. His prolonged detention entitles him to seek bail. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

4. Status report and the custody certificate have been filed by the respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations levelled against the petitioner as well as the fact that commercial quantity of contraband was recovered from him, he is not entitled to get benefit of bail as rigors of Section 37 of the NDPS Act would be attracted against him. The petitioner may abscond or involve in committing similar offences again, if extended benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

6. As per the allegations, the petitioner along with the co-accused was found in conscious possession of commercial quantity of contraband on 02.09.2024. Though, the allegations prima facie make out a case for commission of subject offences against the petitioner, however, on a perusal of the record, it is apparent that there are no chances of conclusion of the trial in near future and it will take considerable time as no prosecution witness out of total forty witnesses has been examined so far. The petitioner has remained in custody since long. 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 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 of India 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 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 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, 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 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 extended 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 analysing 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 as mentioned above, the trial is not likely to be concluded in near future as no prosecution witness out of total forty witnesses has been examined so far. The petitioner has clean antecedents. In view thereof, this Court is of the considered opinion that 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 or indulge in similar offences. Every day spent by an accused in custody provides a new cause of action for filing a bail application under certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the right of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since settled proposition of law is that detention prior

to trial should not become punitive. 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.

12. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

23.03.2026

Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>