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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-52969-2025

Date of decision: 2nd February, 2026

Jobanjeet Singh @ Jobanjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ruhani Chadha, Advocate for the petitioner.

Mr. Durgesh Garg, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The instant one is the second petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 09 dated 26.01.2024 registered under Section 25 of Arms Act, 1959 (Sections 120-B of IPC and Sections 21, 27-A and 29 of NDPS added later on) at Police Station State Special Operation Cell (SSOC) District Amritsar. His previous petition CRM-M-2102-2025 had been dismissed as withdrawn vide order dated 04.03.2025.

2. As per the allegations, on 26.01.2024, a secret information was received to the effect that the petitioner, along with the co-accused Gursewak Singh, Happy and other accomplices, was indulged in smuggling of illicit

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weapons from Madhya Pradesh and to supply the same to notorious gangsters and anti social elements. It was also informed that on the same day, the accused Gursewak Singh was going to U.T. market, Guru Nanak Dev University to deliver illegal arms and could be apprehended. Believing the secret information to be true, a raiding party was immediately formed. Intimation was sent to the police station for registration of case. The police officials reached at the informed place. Recovery of one pistol .32 bore alongwith magazine, 05 live bullets of .32 bore and one mobile phone was effected from his conscious possession on 27.01.2024. The present petitioner was also arrested from his house. A mobile phone was recovered from him. He suffered disclosure statement admitting his involvement with the co-accused and got recovered 375 grams of heroin. Subsequently, co-accused Gursewak Singh has also been arrested. Investigation now stands completed.

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. He is in custody for over a period of two years. Trial will take considerable time to conclude as only 01 out of 22 prosecution witnesses has been examined so far. His further incarceration would not serve any useful purpose. He is on bail in all the cases registered against him. His involvement in other cases cannot be considered to be a reason for denying benefit of bail to him. His prolonged incarceration amounts to substantive change in circumstances and the same has entitled him for seeking concession of bail. It is, therefore, argued that the petition deserves to be allowed.

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4. *Per contra*, learned State counsel has vehemently argued that the petition is not maintainable being successive one. The allegations against the petitioner are serious in nature. The rigors of Section 37 of the NDPS Act are attracted in the present case. There are chances of petitioner's absconding or committing similar offences, if extended benefit of bail. Therefore, it is stressed that the petition does not deserve to be allowed.

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

6. The petitioner is in custody for over a period of two years. This factor, in the opinion of this Court, is a ground to move for bail afresh. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time, and the bail application can be considered on its own merits even if it is filed repeatedly. It has also been held that every day spent in custody can provide 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 rights of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since the settled principle of law is that detention prior to trial should not become punitive. Trial is likely to take time to conclude as most of the prosecution witnesses are yet 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

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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 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

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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 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 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 over a period of two years,

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the trial is not likely to be concluded in near future as all the 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 subject to his furnishing personal as well as surety bonds of two sureties to the satisfaction of the learned trial Court and further subject to giving details of his present/permanent address, cell phone number and Aadhar Card, at the time of furnishing bonds before the learned trial Court. That apart, the petitioner shall also ensure his presence before the SHO concerned, on the first Monday of every alternate month till the conclusion 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 already been decided, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

2nd February, 2026
Parveen Sharma

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