



CRM-M-54269-2025 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(227)

**CRM-M-54269-2025 (O&M)
Date of decision : 14.01.2026**

HARPREET SINGH @ PEETA

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ravi Singh, Advocate, Legal Aid Counsel for the
petitioner

Mr. Roshandeep Singh, AAG, Punjab

MANISHA BATRA, J. (ORAL)

1. The instant petition is the second petition filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking grant of regular bail in case arising out of FIR No.2 dated 08.01.2024 registered under Section 21-C and 29 of Narcotics Drugs and Psychotropic Substances Act (for short 'NDPS') registered at Police Station E Division, Police Commissionerate, District Amritsar.

2. As per the allegations, on 08.01.2024 on receipt of a secret information to the effect that the petitioner was involved in the business of smuggling of narcotic substances and had stored a huge quantity of the same in his house and was trying to deliver it through some other persons, a raiding party was formed which reached the house of the

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petitioner and had conducted search after completion of due formalities. Cash amounting of Rs.3 lakhs and 1.500 KG of heroin were recovered from him. He was formally arrested. The recovered contraband and money were taken in custody. He was interrogated and suffered disclosure statements on the basis of which co-accused Mandeep Singh was nominated as an accused, who too was arrested subsequently. Investigation now stands completed. The previous petition as filed by the petitioner had been dismissed on 13.01.2025.

3. It is argued by learned counsel for the petitioner that ever since the dismissal of his previous petition, a period of more than one year has expired. The trial has not proceeded any further and only one out of 15 prosecution witnesses has been examined so far. There are no chances of conclusion of the trial in near future. His prolonged incarceration militates against his fundamental rights under Article 21 of the Constitution of India. He does not have any criminal antecedents. His continued detention would not serve any useful purpose. Each day spent by him in custody has furnished a new ground for seeking benefit of bail by him. It is, therefore, argued that he deserves to be released on bail.

4. Status report and custody certificate have been filed. Learned State counsel has argued that the instant one being the successive petition for grant of bail is not maintainable. It is further argued that even otherwise the allegations against the petitioner are serious in nature as commercial quantity of contraband was recovered

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from him. There are chances of his committing similar offences or absconding, if extended benefit of bail. It is, therefore, stressed that the petition does not deserve to be allowed.

5. This Court has heard the rival submissions made by the counsels for the parties at considerable length.

6. The petitioner is in custody for a period of over 02 years. Only one prosecution witness has been examined so far which makes it clear that the trial has not proceeded further after dismissal of his previous petition on 13.01.2025. It is well-settled law that the Court, while considering an application for grant of bail, has to keep certain factors in mind such as whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence, circumstances which are peculiar to the accused, likelihood of the offence being repeated, the nature and gravity of the accusation, severity of the punishment in the event of conviction, the danger of the accused absconding or fleeing if released on bail, and reasonable apprehension of the witnesses being threatened etc. However, at the same time, the period of incarceration is also a relevant factor to be considered while deciding whether bail should be granted to an accused charged with an offence under the provisions of the NDPS Act. The twin conditions under Section 37 of the NDPS Act are to be satisfied. The rigors of Section 37 of the NDPS Act are attracted in this case as the accusations pertain to the recovery of commercial quantity of contraband from the petitioner. However, so far as the maintainability of the petition is concerned, it may

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be mentioned that an accused has a right to make successive applications for grant of bail, and it is the duty of the Court, while entertaining such a subsequent bail application, to consider the reasons and grounds on which the earlier bail petition was rejected. The fresh grounds which persuade the Court to take a view different from the one taken in the earlier application are also required to be recorded. Reference in this regard can be made to ***Prasad Shrikant Purohit v. State of Maharashtra (2018) 11 SCC 458***, wherein it was so observed.

7. In the instant case, the previous petition filed by the petitioner had been dismissed on the ground that there were specific and serious allegations against the petitioner and contraband of commercial quantity was recovered from him. As per the custody certificate, the petitioner has remained in custody for a period of more than two years. A period of almost one year has elapsed after dismissal of previous petition. 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

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the settled principle of law is that detention prior to trial should not become punitive. Only one out of 15 prosecution witness has been examined by the prosecution till now. Obviously, the petitioner is not required for further investigation. It is true that grant of bail on account of delay in trial and long period of incarceration is to be considered in light of Section 37 of the NDPS Act. Reliance in this regard can be placed on the observations made by the 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 436A which is applicable to offences under the Act. It was also observed that the 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 ***Rabdi Prakash v. State of Odisha, 2023 SCC OnLine SC 110***, wherein bail was granted to the accused who had been incarcerated for a period of almost two to three years and the trial was likely to take considerable time. 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 principle must override the statutory embargo contained under Section 37 of the NDPS Act.

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8. 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 extent of two sureties to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned and on the following conditions:-

- (i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case in any manner whatsoever.
- (ii) The petitioner shall not leave the country under any circumstance without permission of the learned trial Court.
- (iii) The petitioner shall appear before each and every date of hearing.
- (iv) The petitioner shall provide his address where he would be residing after release and shall not change the same without informing the concerned IO/SHO.
- (v) The petitioner shall upon his release give his mobile phone number to concerned IO/SHO and shall keep his mobile phone switched on all times.
- (vi) The petitioner shall surrender his passport, if any, furnish details of his cell phone and Aadhaar card, and

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shall not change his mobile number(s) during the pendency of the trial.

9. In the event of there being any FIR/complaint lodged against the petitioner, it shall be open to the respondent to seek redressal by filing an application seeking cancellation of bail.

10. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and shall not influence the outcome of the trial.

11. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

14.01.2026
Amit Sharma

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No