

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

(234)

CRM-M-59032-2025 (O&M)

Date of decision : 10.02.2026

AKASHDEEP SINGH @ GURDAS

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amit Arora, Advocate for the petitioner

Ms. Sakshi Bakshi, AAG, Punjab

MANISHA BATRA, J. (ORAL)

1. The instant one is the second petition filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”) for grant of regular bail in case arising out of FIR No.0114 dated 28.07.2023 registered under Section 15(C) and 18 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “NDPS”) (Section 29 of NDPS added later on) at Police Station Sirhali, District Tarn Taran. The previous petition was dismissed as withdrawn on 04.09.2025.

2. As per the allegations, on 28.07.2023, on the basis of a secret information, a truck bearing registration No.PB-05-AP-9605 which was coming from the side of Village Hari Ke was stopped. The driver of the truck as well as another occupant tried to escape but were apprehended. They disclosed their names as Sajanpreet Singh and Akashdeep Singh i.e. the present petitioner. On

conducting search, 540 bags containing 180 Kgs of poppy husk and 500 grams of opium were recovered from the truck which were taken into possession by the Police. The petitioner and co-accused were formally 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. His previous petition was dismissed as withdrawn. However, there has not been much progress in the trial as only 02 prosecution witnesses, have been examined so far. He is in prolonged incarceration for a period of over 02 years and 06 months. The co-accused Sajanpreet Singh has already been extended benefit of bail. On parity, he too deserves the same benefit. His continued detention would not serve any useful purpose. He is not involved in the case of similar nature. It is thus, urged that the petition deserves to be allowed.

4. Status report and custody certificate have been filed. Learned State counsel has argued that commercial quantity of contraband had been recovered from conscious possession of the petitioner. The rigors of Section 37 of NDPS Act are attracted in this case. There are chances of petitioner's committing similar offences, if extended benefit of bail. It is, therefore, stressed that the petitioner does not deserve to be released on bail.

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

6. The petitioner is in custody for a period of 02 years, 06 months and 07 days. It is well settled proposition of law that each day spent in custody by an accused furnished a ground to seek concession of bail to him. 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. 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 LiveLaw (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 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. 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 a period of 02 years, 06 months and 07 days, the trial is not likely to be concluded in near future as only 02 out of 14 prosecution witnesses have been examined so far. 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 to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

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

14. It is, however, 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.

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

(MANISHA BATRA)
JUDGE

10.02.2026
Amit Sharma

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