

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:008685



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CRM-M-63071-2025 (O&M)
Date of decision:21.01.2026

Bablu

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vivek K. thakur, Advocate for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. The instant one is the second petition as 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.149, dated 16.11.2024, registered under Section 18 of the NDPS Act (offences under Sections 18-C, 25 and 29 of the NDPS Act were added lateron), at Police Station Sarabha Nagar, District Ludhiana.

2. As per the allegations, on 16.11.2024, on the basis of secret information, accused Amarjit Singh was apprehended and 2.510 kgs of opium was recovered from his conscious possession. Subsequently, he also got effected recovery of drug money of Rs.22,41,510/- and some gold jewellery. In his second disclosure statement, he disclosed that the petitioner had supplied recovered contraband to him and had been supplying the same

regularly. The petitioner was nominated as an accused and was arrested on 18.11.2024. His previous petition was dismissed by this Court vide order dated 29.07.2025.

3. It is argued by learned counsel for the petitioner that ever since the dismissal of his previous petition, trial has not progressed much as only 01 out of 20 witness has been examined so far. He has clean antecedents. His further incarceration would not serve any useful purpose. Even otherwise, it militates against Article 21 of the Constitution of India. It is further argued that the prolonged custody of the petitioner amounts to change in the circumstances and has given a fresh cause to the petitioner to file bail petition afresh. It is, therefore, argued that the petitioner deserves to be extended benefit of bail.

4. Per contra, learned State counsel while placing on record status report and custody certificate has argued that since the previous petition of the petitioner had been dismissed on merits and it is a successive bail petition, hence, the same is not even maintainable. It is, therefore, argued that even otherwise taking into consideration the gravity of the allegations as levelled against the petitioner, the petition does not deserve to be allowed.

5. This Court has heard the rival submissions made by learned counsel for the parties.

6. The petitioner is in custody for over a period of 01 year and 02 months. So far as the trial is concerned, it has not progressed much as only 01 witness has been examined so far. There are no chances of the conclusion of the trial in the near future. Every day spent 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 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. Involvement of the petitioner in other case cannot be considered to be a ground for denying benefit of bail to him. Rigors of Section 37 of the NDPS Act cannot be stated to be attracted against him. 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 Rabdi 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 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 abovementioned 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.

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 01 year and 02 months, the trial is not likely to be concluded in near future as only 01 prosecution witnesses has been 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. As such, the prolonged detention of the petitioner amounts to drastic change in circumstances extending fresh ground to petitioner to seek bail.

12. In view of the above discussion, this Court is of the considered opinion that a case is made out for grant of bail to the petitioner. 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.

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 been allowed, pending application, if any, is rendered infructuous.

21.01.2026

harjeet

(MANISHA BATRA)
JUDGE

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