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

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1. CRM-M-649-2025 (O&M)

Vikas Mahajan @ Munna ...Petitioner

Versus

State of Punjab ...Respondent

2. CRM-M-1329-2025 (O&M)

Varan Kumar @ Billa ...Petitioner

Versus

State of Punjab ...Respondent

Date of decision : 09.02.2026

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Akun Sheemar, Advocate
for the petitioner in CRM-M-649-2025.

Mr. Manoj R. Sharma, Advocate
for the petitioner in CRM-M-1329-2025

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in these petitions, filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioners in
FIR No. 141 dated 17.10.2024, registered under Section 20 of the Narcotic
Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police
Station Division No. 2, District Pathankot.

2. Brief facts of the case relevant for the disposal of the present
petition are that on 17.10.2024, on the basis of a secret information, the
petitioners Vikas Mahajan @ Munna and Varun Kumar @ Billa, while coming

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in a car bearing registration number HP-38-E-3400, were apprehended by a police party and recovery of 01 kg. 10 grams of Cannabis (*Charas*) was effected from the said car. Apart from this, recovery of drug money of Rs.3 Lakhs was also effected from them. Upon interrogation, co-accused Vikas Mahajan @ Munna disclosed that co-accused Surinder Pal Singh @ SP @ Surender Pal Singh Gahlot had given him a sum of Rs.10 Lakhs to buy cannabis, out of which, Rs. 6 Lakhs was given in cash to him. He had bought cannabis worth Rs. 2.20 Lakhs. On the basis of the same, the said co-accused was nominated as accused in this case and was arrested on the same day. He suffered disclosure statement admitting his involvement in the subject crime. Investigation now stands completed.

3. It is argued by learned counsel for the petitioners that they have been falsely implicated in this case. A false recovery was planted upon them. They have clean antecedents. The mandatory provisions of the NDPS Act were not complied with properly. Even otherwise, the quantity of the contraband allegedly recovered from the petitioners is marginally higher than the commercial quantity. Investigation has since been completed and challan has been presented before the Court. The trial is likely to take considerable time. The petitioner are in custody since 17.10.2024. No useful purpose would be served by keeping them in custody anymore. It is, thus, urged that the petitions deserve to be allowed. Learned counsel for the petitioners have placed reliance upon the judgments cited as *Amritpal Singh vs. State of Punjab : 2022 (3) Law Herald 1996*, *Karandeep Singh @ Sunny vs. State of Punjab : 2021 (3) Law Herald 2230* and *Mandeep Singh alias Lakhari vs. State of Punjab : 2022 (1) Law Herald 74*, whereby the accused, from whom the contraband marginally

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above the commercial quantity was recovered, were granted concession of bail.

4. Status reports have been filed by the respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations levelled against the petitioners, they are not entitled to get benefit of bail. It is, thus, argued that the petitions are liable to be dismissed.

5. This Court has heard the rival submissions.

6. The petitioners is in custody since 17.10.2024. The quantity of the contraband recovered from them is marginally above than the commercial quantity. Though the allegations levelled against the petitioners make out a prima facie case against them for commission of subject offence, 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. The petitioners are not shown to be involved in any other case of similar nature. 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. (*corresponding to Section 479 of BNSS*) 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***

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(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 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**

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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. 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***.

10. Therefore, keeping in view the discussion as made above as well as the ratio of law laid down in aforecited authorities, this Court is of the considered opinion that the petitioners deserve to be granted benefit of regular bail. Accordingly, the present petitions are allowed. The petitioners are ordered to be released on regular bail, subject to their furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioners are found involved in any other subsequent case.

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

12. Let a photocopy of this order be placed on the file of the connected case.

09.02.2026
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No