

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:010262



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CRM-M-63354-2025 (O&M)
Date of decision:23.01.2026

Ankit

... Petitioner

Vs.

Union Territory, Chandigarh

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

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

Mr. Manish Bansal, P.P., U.T., Chandigarh with
Ms. Disha Sharma, Advocate for the respondent/State.

...

Manisha Batra, J. (Oral).

1. In this third successive petition as filed by the petitioner, he is making a prayer for grant of regular bail in case arising out of FIR No.132, dated 09.11.2023, registered under Section 20 and 29 of the NDPS Act, at Police Station Sector-26 (East), Chandigarh.

2. The petitioner along with the co-accused is facing trial for commission of the aforementioned offences on the allegations that recovery of 2 kgs and 104 grams of *charas* was effected from the joint conscious possession of the petitioner and co-accused. While dismissing the previous petition on 02.08.2025, this Court had made the following observations:

“The petitioner along with above named three co-accused was apprehended by the police party on 09.11.2023

and recovery of 02 kgs. 104 grams of Charas was effected from them. The said quantity of the contraband obviously falls under commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioner. As regards the arguments advanced by learned counsel for the petitioner with regard to non-compliance of the statutory provisions of NDPS the Act during investigation by the police party, the same have direct bearing on the merits of the case, which cannot be looked into at this stage while deciding a bail petition filed under Section 483 of BNSS. The apprehension expressed by learned Public Prosecutor that the petitioner, if extended benefit of bail, may abscond or indulge in similar offences can also not be stated to be unfounded. Keeping in view the discussion as made above, the quantity of recovered contraband, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be granted benefit of regular bail, at this stage. Hence, the petition is dismissed.”

3. It is argued by learned counsel for the petitioner that ever since the date of dismissal of his previous petition, the trial has not progressed further and only 02 out of 24 prosecution witnesses have been examined so far. He has been in continued detention for a period of over 02 years, 02 months and 11 days. There are no chances of the conclusion of the trial in near future. His further incarceration would not serve any useful purpose. Co-accused have been extended benefit of bail. His antecedents are clear. He has further argued that the prolonged incarceration of the petitioner amounts to a substantive change in the circumstances and has extended a fresh ground to him to seek concession

of bail. It is, therefore, argued that he deserves to be extended the benefit of bail.

4. Status report and custody certificate have been filed. Learned State counsel has vehemently argued that since the previous petition as filed by the petitioner has been dismissed on merits and this is the successive bail petition and has no substantive change in the circumstances, therefore, the petition does not deserve to be allowed.

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

6. Petitioner is in continued detention for a period of 02 years and 02 months and 11 months as on date. The chances of conclusion of the trial in near future are bleak since 02 out of 24 prosecution witnesses have been examined so far. It has also been held that 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. 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 Live Law (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 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 a period of 02 years, 02 months and 11 days, the trial is not likely to be concluded in near future as only 02 out of 24 prosecution witnesses have 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.

23.01.2026

harjeet

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No

(MANISHA BATRA)
JUDGE