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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.64317 of 2025

Jagsir Singh ... Petitioner

Versus

State of Punjab ... Respondent

1.	The date when the judgment is reserved	10.03.2026
2.	The date when the judgment is pronounced	12.03.2026
3.	The date when the judgment is uploaded on the website	12.03.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rajesh Bhatheja, Advocate,
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J.

1. The instant one is the second petition as filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking regular bail in case arising out of FIR No.123 dated 14.08.2024 registered under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’) at Police

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Station City Khanna, District Ludhiana. The previous petition as filed by him, had been dismissed as withdrawn vide order dated 06.08.2025.

2. As per the allegations, on 14.08.2024, while performing patrolling duty, the police officials found a canter bearing registration No.PB-04-AE-9732 lying parked at the service road. A person was found sitting on the driver seat. On noticing the police officials, the said person started darting towards back side of the canter. On suspicion, he was apprehended. On asking, he disclosed his name as Jagsir Singh @ Jagga i.e. the present petitioner. On conducting search, 4 plastic bags were recovered from the tool box of the canter. Poppy husk was found kept in the same. Same weighed to be 80 Kgs. The recovered contraband was taken into possession. The petitioner was formally arrested. Investigation now stands concluded.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since long. He is not presently involved in any case and acquitted in one case as registered against him. There are no chances of conclusion of trial in a considerable time as only 01 out of 13 witnesses stand examined. No useful purpose would be served by detaining him in custody any more. Each day spent by him in custody has furnished a new ground to seek concession of bail. It is, therefore, argued that he deserves to be released on bail.

4. Per contra, learned Assistant Advocate General, Punjab has argued that the previous petition as filed by the petitioner had been

dismissed as withdrawn. This petition being successive petition is not

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maintainable. Commercial quantity of contraband has been recovered at the instance of the petitioner. The rigors of Section 37 of NDPS Act are attracted in this case. It is, therefore, argued that the petition does not deserve to be allowed.

5. This Court has considered the rival submissions.

6. The petitioner is alleged to have been found in possession of commercial quantity of contraband. He is in custody since 14.08.2024. The trial will obviously take considerable time to conclude as only 01 witness has been examined so far. 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.***

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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 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

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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 taken 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 more than 01 year and 06 months, the trial is not likely to be concluded in near future as

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only 01 prosecution witness 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.

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 on his furnishing personal as well as surety bonds to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned and subject to the condition that 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 Aadhaar 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.

12.03.2026
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No