

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

2026:PHHC:044066



CRM-M-65081-2025 (O&M)

Surinder Kumar ...Petitioner

Versus

State of Punjab ...Respondent

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	19.03.2026
2	The date when the judgment is pronounced	23.03.2026
3	The date when the judgment is uploaded on the website	23.03.2026
4	Whether only operative part of the judgment is pronounced or 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. Bhrigu Dutt Sharma, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

MANISHA BATRA, J.

1. The instant one is the second petition that has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail in case bearing FIR No. 83 dated 25.04.2024, registered under Section 25(6) of the Arms Act [Sections 25(1)(1B)(9), 25(6) of the Arms Act and Section 21(c) of the NDPS Act, 1985 added later on] at Police Station Division No. 6, Police Commissionerate Jalandhar, District Jalandhar. The previous petition of the petitioner was dismissed as withdrawn on 03.09.2025 with liberty to file afresh after completing custody of 01 year and 06 months.

2. Brief facts of the case relevant for the disposal of the present petition are that on 25.04.2024, on the basis of a secret information, the petitioner was apprehended by a police party when he was present in a park opposite to Kahlon Hospital and recovery of one country made pistol of .32 bore along with five live cartridges, was effected from his conscious possession. Upon arrest, the petitioner was interrogated and on 28.04.2024, he got recovered one country made pistol of .32 bore and one country made pistol of 0.315 bore along with 260 grams of heroin. The recovered contraband and illegal arms/ammunitions were taken into possession by the police. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner is facing trial for commission of aforementioned offence.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case and a false recovery has been planted upon him. He is in custody for a period of more than 01 year, 10 months and 17 days. There is prolonged pendency of the trial in the present case and there is no likelihood of its conclusion in the near future, particularly as no prosecution witness has been examined so far out of total sixteen witnesses. His previous petition was dismissed as withdrawn with liberty to apply afresh after undergoing custody of 01 year and 06 months. The petitioner has even undergone custody beyond that period. The extended period of his incarceration is a sufficient and new ground to seek concession of bail to him. His continued detention would not serve any useful purpose. His involvement in other cases cannot be made a ground for denying him the benefit of bail as he has repeatedly been implicated in false cases, out of which, in eight cases he has been acquitted, FIRs in two cases have been quashed and he is facing trial only

in three cases, in which he is already on bail. With these broad submissions, it is urged that the petition deserves to be allowed.

4. Status report and custody certificate have been filed by respondent-State. It is argued by learned State counsel that taking into consideration the gravity of the allegations levelled against the petitioner, his criminal antecedents as well as the fact that commercial quantity of the contraband along with illegal arms/ammunitions was recovered from him, he does not deserve to be released on bail. Therefore, it is stressed that the petition does not deserve to be allowed.

5. This Court has heard learned counsel for the parties at considerable length.

6. The petitioner is alleged to be found in conscious possession of illegal arms and ammunitions. Recovery of commercial quantity of contraband is alleged to be effected from him subsequently. He is in custody since 25.04.2024 and has spent a period of more than 01 year and 10 months. Though, the allegations prima facie make out a case for commission of subject offences against the petitioner, 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 as no prosecution witness out of total sixteen witnesses has been examined so far. The petitioner has remained in custody since long. 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 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 of India 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 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. 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 as mentioned above, the trial is not likely to be concluded in near future as no prosecution witness out of total sixteen witnesses has been examined so far. In view thereof, this Court is of the considered opinion that 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 or indulge in similar offences. 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.

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

23.03.2026

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No