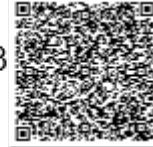


IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

2026:PHHC:018143



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CRM-M-67369-2025 (O&M)

Date of decision:06.02.2026

Rajinder Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. P.S. Sekhon, Sr. Advocate with  
Mr. R.S. Gill, Advocate for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

...

**Manisha Batra, J. (Oral).**

1. The petitioner is seeking indulgence of this Court for grant of regular bail in case arising out of FIR No.85 dated 15.03.2023, registered under Sections 18, 25, 29 and 31 of the NDPS Act, at Police Station Zirakpur, District SAS Nagar, Mohali, on the allegations that on 15.03.2023, a secret information was received to the effect that petitioner along with co-accused Afzal Khan @ Mohd Afjal was involved in the business of sale of opium in the area of Zirakppur, Chandigarh, Mohali and Ambala and could be apprehended with huge quantity of contraband on the same day, as he was present at a particular place, with the same. Believing the secret information to be true, a raiding party was formed, which raided the

informed place and apprehended the petitioner along with co-accused Afzal Khan @ Mohd. Afjal in a car bearing registration No.CH-01-CE-2240. On conducting search, 3 kgs of opium was recovered from the car whereas 2 kgs of opium and drug money of Rs.11 lakhs had recovered from the house of co-accused Afzal Khan @ Mohd. Afjal in pursuance of his disclosure statement. Petitioner got recovered 2 kgs of opium and drug money of Rs.6 lakhs. The petitioner along with co-accused is now facing trial for commission of aforementioned offences.

2. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. A false recovery has been planted upon him. He is in custody since 15.03.2025. Trial will take considerable time to conclude as only 04 out of 17 witnesses have been examined so far. He is ready to abide the terms and conditions to be imposed upon him by the learned trial Court. With these broad submissions, it is urged that he deserves to be extended benefit of bail.

3. Per contra, learned State counsel has vehemently opposed the grant of any relief to the petitioner by submitting that there are serious and specific allegations against him. The recovered contraband is of commercial quantity. Therefore, it is urged that the petition does not deserve to be allowed.

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

5. It is well-settled law that the Court, while considering an application for grant of bail, has to keep certain factors in mind such as whether there is a *prima facie* case or reasonable ground to believe that the

accused has committed the offence, circumstances which are peculiar to the accused, likelihood of the offence being repeated, the nature and gravity of the accusation, severity of the punishment in the event of conviction, the danger of the accused absconding or fleeing if released on bail, and reasonable apprehension of the witnesses being threatened, etc. However, at the same time, the period of incarceration is also a relevant factor to be considered while deciding whether bail should be granted to an accused charged with an offence under the provisions of the NDPS Act. The twin conditions under Section 37 of the NDPS Act are to be satisfied. The rigors of Section 37 of the NDPS Act are attracted in this case as the accusations pertain to the recovery of commercial quantity of contraband from the petitioner as well as from the co-accused.

6. In the instant case, contraband of commercial quantity was recovered from him. The petitioner has remained in custody for a period of 02 years, 10 months and 14 days. Only 04 out of 17 prosecution witnesses have been examined by the prosecution till now. Obviously, the petitioner is not required for further investigation. It is true that grant of bail on account of delay in trial and long period of incarceration is to be considered in light of Section 37 of the NDPS Act. Reliance in this regard can be placed on the observations made by the 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 436A which is applicable to offences under the Act. It was also observed that the 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 bail was granted to the accused, who had been incarcerated for a period of almost two to three years and the trial was likely to take considerable time. By observing that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution, and in such a situation, the constitutional principle must override the statutory embargo contained under Section 37 of the NDPS Act.

7. 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 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.

8. 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.

9. Since the main petition has been allowed, pending application,  
if any, is rendered infructuous.

06.02.2026

*harjeet*

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

(MANISHA BATRA)  
JUDGE