

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:021208



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CRM-M-68372-2025 (O&M)

Date of decision: 11.02.2026

Kulwant Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sahil Choudhary, Advocate for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No.117, dated 02.08.2023, registered under Sections 18, 25, 29 of the NDPS Act, at Police Station Barnala, District Barnala.

2. As per the allegations, on 02.08.2023, on the basis of a secret information, the petitioner along with co-accused Ranjodh Singh @ Jodha was apprehended along with a truck bearing registration No.PB-07-BQ-9958 and recovery of 12 kgs of opium was effected from the truck. Investigation now stands completed.

3. 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, which is not direct recovery from him but was allegedly made from the truck. He is in custody for a period of over 02 years and 06 months and 07 days. Only 05 out of 25 prosecution witnesses have been examined so far. The trial will take considerable time to conclude. The delay in conclusion of trial is a sufficient ground to extend benefit of bail to him. His continued detention would not serve any useful purpose. He has clean antecedents. With these broad submissions, it is, urged that the petition deserves to be allowed.

4. Status report and custody certificate have been filed. It is argued by learned State counsel that commercial quantity of contraband was recovered from the conscious possession of the petitioner and co-accused. Rigors of Section 37 of the NDPS Act are attracted in this case. There are chances of the petitioner's absconding or committing similar offences if extended benefit of bail. It is, therefore, argued that he does not deserve to be extended the benefit of bail.

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

6. The petitioner is in custody since 02.08.2023 i.e. for a period of over 02 years, 06 months and 07 days. It is apparent from the record that there are bleak chances of conclusion of trial in near future since as many as 20 prosecution witnesses still remain to be examined. 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 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 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 for a period of 02 years, 06 months and 07 days, the trial is not likely to be concluded in near future; 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 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 extent of two sureties in the like amount each, 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.

11.02.2026

harjeet

**(MANISHA BATRA)
JUDGE**

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