



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-M No.68290 of 2025
Date of decision : 12.1.2026
Date of uploading : 13.1.2026**

Sanjay Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. I.S. Kooner, Advocate, for the petitioner

Mr. Gaurav Gurcharan S. Rai, Senior DAG, Punjab

SUMEET GOEL, J. (ORAL)

1. Present second petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.50 dated 2.7.2023, under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (Wrongly mentioned as Sections 22 and 61 in the FIR), registered at Police Station Talwara, District Hoshiarpur.
2. The gravamen of the allegations against the petitioner is that the petitioner was apprehended by the police upon suspicion near Shivalik Enclave Colony, while he was going on foot holding a heavy plastic bag in his right hand. Upon having conducted search thereof, recovery of 265 intoxicant capsules, having weight of 100.17 grams containing alprazolam has been allegedly effected from the petitioner.



3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 2.7.2023. Learned counsel has further submitted that the mandatory provisions of the NDPS Act have not been complied with, and thus, the prosecution case suffers from inherent defects. Learned counsel has argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has iterated that the contraband alleged to have been recovered from the petitioner is 265 intoxicant capsules, having weight of 100.17 grams of alprazolam, which is marginally above the threshold limit of non-commercial quantity specified in the notification issued under the NDPS Act. Thus, regular bail is prayed for.

4. Learned State counsel seeks to place on record custody certificate dated 11.1.2025. Learned State counsel has opposed the present petition by arguing that allegations raised against the petitioner are serious in nature and, thus, he does not deserve the concession of the regular bail. Learned State counsel has further submitted that the instant bail plea is barred by the rigors of Section 37 of the NDPS Act, and thus, the same ought to be dismissed.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. The petitioner was arrested on 2.7.2023 whereinafter investigation was carried out and challan was presented on 13.2.2024. Total 8 prosecution witnesses have been cited but only 2 have been examined till date. It is, thus, indubitable that conclusion of the trial will take long. It is not in dispute that the contraband allegedly recovered from



the petitioner is 265 intoxicant capsules, having weight of 100.17 grams of alprazolam, which is marginally above the threshold limit of non-commercial quantity. Reliance in this regard can be placed upon the orders passed by this Court in *Rajdev Giri versus State of Punjab*, CRM-M-44898-2019, decided on 18.09.2020; *Rahish versus State of Haryana*, CRM-M-36498-2020, decided on 11.11.2020; *Karambir versus State of Haryana*, CRM-M-31820-2019, decided on 28.08.2019; *Jagjit Singh @ Jagga Gill versus State of Punjab*, CRM-M-41242-2019, decided on 27.02.2020 and *Baljit Kaur @ Baljito versus State of Punjab*, CRM-M-12849-2020, decided on 04.06.2020, wherein accused were enlarged on bail in cases where the alleged recovery was slightly more than the quantity prescribed for non-commercial category under the NDPS Act. The rival contentions raised at Bar give rise to debatable issues, which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1. The trial is indeed procrastinating and the folly thereof cannot be fastened upon the petitioner. As per custody certificate dated 11.1.2026 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 2 months and 30 days. In this view of the matter, the rigor imposed under Section 37 of the NDPS Act stands diluted in light of the Article 21 of the Constitution of India.



6.2 As per the said custody certificate, the petitioner is stated to be involved in multiple case/FIRs. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586*; a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in *CRM-M No.38822-2022* titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.

6.3 This Court in a judgment titled as *Kulwinder versus State of Punjab* passed in *CRM-M-64074-2024* (2025:PHHC:002695); after relying upon the *ratio decidendi* of the judgments of the Hon'ble Supreme Court in *Hussainara Khatoon vs. Home Secy., State of Bihar* (1980) 1 SCC 81; *Abdul Rehman Antulay vs R.S. Nayak* (1992) 1 SCC 225; *Javed Gulam Nabi Shaikh vs. State of Maharashtra and another, 2024(3) RCR (Criminal) 494*; *Mohd Muslim @ Hussain vs. State (NCT of Delhi)* reported as 2023 INSC 311; *Criminal Appeal No.245/2020* dated 07.02.2020 titled as "Chitta Biswas Alias Subhas vs. The State of West



Bengal”; “Nitish Adhikary @ Bapan vs. The State of West Bengal”, Special Leave to Appeal (Crl.) No.5530-2022 dated 22.08.2022 titled as “Mohammad Salman Hanif Shaikh vs. The State of Gujarat”; Criminal Appeal No.1169 of 2022 dated 05.08.2022 titled as Gopal Krishna Patra @ Gopalrusma vs. Union of India, and Ankur Chaudhary vs. State of Madhya Pradesh, 2024(4) RCR (Criminal) 172; has held, thus:

“7.8. The right to a speedy and expeditious trial is not only a vital safeguard to prevent undue and oppressive incarceration; to mitigate anxiety and concern accompanying the accusation as well as to curtail any impairment in the ability of an accused to defend himself, but there is an overarching societal interest paving way for a speedy trial. This right has been repeatedly actuated in the recent past and the ratio decidendi of the above-referred to Supreme Court’s judgments have laid down a series of decisions opening up new vistas of fundamental rights. The concept of speedy trial is amalgamated into the Article 21 as an essential part of the fundamental right to life and liberty, guaranteed and preserved under our Constitution. The right to speedy trial begins with the actual restraint imposed at the time of the arrest of the accused and consequent incarceration which continues at all stages, namely, the stage of investigation, inquiry, trial, appeal and revision so that any possible prejudice that may result due to impermissible and avoidable delay since the time of the commission of the offence till the criminal proceedings consummate into a finality, could be averted. The speedy trial, early hearing and quick disposal are sine qua non of criminal jurisprudence. The overcrowded Court-dockets, the heavy volume of work and the resultant pressure on the prosecution and the Police, indubitably keeps the entire criminal jurisprudential mechanism under stress and strain. However, this cannot be an excuse for keeping the sword of Damocles hanging on the accused for an indefinite period of time. It does not serve any credit to the criminal justice system, rather it makes for a sad state of affairs. The guarantee of a speedy trial is intended to avoid oppression and prevent delay by imposing on the Court and the prosecution an obligation to proceed with the trial with a reasonable dispatch. The guarantee serves a threefold purpose. Firstly, it protects the accused against oppressive pre-trial imprisonment; secondly, it relieves the accused of the anxiety and public suspicion due to unresolved criminal charges and lastly, it protects against the risk that evidence will be lost or memories dimmed by the passage of time, thus, impairing the ability of the accused to defend himself. It goes without saying that the consequences of pre-trial detention are grave. Accused, presumed innocent, till proven otherwise, are subjected to psychological and physical deprivations of jail-life, usually under onerous conditions. Equally important, the burden of detention of such an accused frequently falls heavily on the innocent members of his family.

There is yet another aspect of the matter which deserves consideration at this stage. The allegations in the present case relate to accused being involved in an FIR relating to commercial quantity of



contraband under the NDPS Act, 1985. While considering a bail petition in a case involving commercial quantity, the Court has to keep in mind the rigours enumerated under Section 37 of NDPS Act, 1985 which mandates that Courts can grant bail to an accused only after hearing the public prosecutor and after having satisfied itself of twin conditions which are reasonable grounds for believing that the accused is not guilty of the offence charged/alleged and that, he is not likely to commit any offence while on bail. The stringent rigours of Section 37 of the NDPS Act, 1985 must be meticulously scrutinized against the backdrop of accused's fundamental right to a speedy trial. The right to life and personal liberty cannot be rendered nugatory by unwarranted delays in the judicial process, particularly where such delay(s) is neither attributable to the accused nor justified at the end of the prosecution by cogent reasons. An individual cannot be kept behind bars for an inordinate period of time by taking refuge in rigours laid down in Section 37 of the NDPS Act, 1985. The legislature in its wisdom, in order to ensure speedy and timely disposal of the cases under the Act, has provided for the constitution of special Courts under Section 36-A of the Act. However, this Court cannot turn Nelson's eye to the protracted delays and systematic inefficiency that frustrate this legislative purpose. A Court of law is duty-bound to ensure that it does not become complicit in violation of an individual's fundamental rights, notwithstanding anything contained in a statute. While dealing with bail petition in a case governed by the rigours of Section 37 of the NDPS Act, 1985, the Court must strike a judicious balance between the legislative intent to curb the menace of drugs and the sacrosanct right of the accused to a fair and expeditious trial. Prolonged incarceration, without justifiable cause, risks transforming pre-trial detention into punitive imprisonment, an outcome antithetical to the principle of justice and equity.

Ergo, the unequivocal inference is that where the trial has failed to conclude within a reasonable time, resulting in prolonged incarceration, it militates against the precious fundamental rights of life and liberty granted under the law and, as such, conditional liberty overriding the statutory embargo created under Section 37 of the NDPS Act, 1985 ought to be considered as per facts of a given case. In other words, grant of bail in a case pertaining to commercial quantity, on the ground of undue delay in trial, cannot be said to be fettered by Section 37 of the NDPS Act, 1985."

6.4 Indubitably, the petition in hand is the second attempt to secure regular bail to the petitioner. The first bail petition was dismissed on 20.8.2025 wherein withdrawal order was passed as under:

'Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No.50 dated 02.07.2023, registered for the offences punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act')



(Wrongly mentioned as Sections 22 and 61 in the FIR), at Police Station Talwara, District Hoshiarpur.

2. Learned counsel for the petitioner, after arguing for sometime, seeks to withdraw the petition in hand, at this stage.

3. Ordered accordingly.

4. Pending application(s), if any, shall also stand disposed of.'

6.5 Keeping in view the factual *milieu* of the case in hand; pace of the trial and the extended period of custody, this Court is inclined to favourably consider the instant petition.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.



(vii) The petitioner shall not in any manner try to delay the trial.
(viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after his being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

12.1.2026
Ashwanii

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