



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

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CRM-M-70460-2025

Date of decision: 5th March, 2026

Daljeet Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sauhard S. Hooda, Advocate for the petitioner.

Ms. Himani Arora, Deputy Advocate General, Haryana.

MANISHA BATRA, J (ORAL):-

The instant one is the third petition 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. 139 dated 18.07.2024 registered under Section 22(C) of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') (Section 29 of NDPS added later on) at Police Station City Pehowa, District Kurukshetra, Haryana. Previous two petitions filed by him before this Court had been dismissed as withdrawn vide orders dated 19.05.2025 and 03.09.2025 respectively.

2. As per the allegations, on 18.07.2024, on receipt of a secret information to the effect that the petitioner was involved in the sale of intoxicating tablets and contrabands and on that very day also, he was going on his motor bike with intoxicating tablets from Pehowa Kurukshetra road towards Bilochpur and could be apprehended with the same, a raiding party

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was formed which reached at the informed place and apprehended the petitioner. On conducting his search, intoxicating tablets of Tramadol Hydrochloride, weighing 341 grams had been recovered from his conscious possession. He was formally arrested. The contraband was taken into possession. 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. He is in custody since 18.07.2024. Trial will take considerable time to conclude as none out of 25 prosecution witnesses, has been examined so far. He is not involved in any other case under the provisions of NDPS Act. His further incarceration would not serve any useful purpose. With these broad submissions, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that, keeping in view the criminal antecedents of the petitioner and the nature of the allegations levelled against him, coupled with the fact that commercial quantity of contraband has been recovered from him and that the rigors of Section 37 of the NDPS Act are attracted in the present case, the petitioner does not deserve to be extended the benefit of 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 have been found in possession of commercial quantity of contraband. Though the allegations as levelled make out a prima facie case for commission of other offences as against the petitioner, however, he is in continuously custody since 18.07.2024 i.e. 01

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year, 07 months and 18 days. Trial is still likely to take time as none out of 25 prosecution witnesses 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. Trial is likely to take time to conclude as most of the prosecution witnesses are yet 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

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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 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 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 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

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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 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 over a period of 01 year, 07 months and 18 days, the trial is not likely to be concluded in near future as all the prosecution witnesses are yet to be 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 subject to his furnishing personal as well as surety bonds of two sureties 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

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appear before the learned trial Court on each and every date of hearing except when his presence is 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 already been decided, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

5th March, 2026

Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |