

2026:PHHC:034702



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

CRM-M-70829-2025 (O&M)

Harpal Singh ...Petitioner

Versus

State of Punjab ...Respondent

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	06.03.2026
2	The date when the judgment is pronounced	10.03.2026
3	The date when the judgment is uploaded on the website	10.03.2026
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. Vikram Satpal Anand, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J.

- Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in case arising out of FIR No. 104 dated 06.11.2023, registered under Section 21(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) and Section 10, 11 and 12 of the Air Craft Act, 1934 (deleted later on) at Police Station Khem Karan, District Tarn Taran.
- Brief facts of the case relevant for the disposal of the present

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petition are that on 06.11.2023, a secret information was received by a police party headed by SI Gurinder Singh to the effect that some notorious smugglers had brought contraband in huge quantity through drones from Pakistan, which had been kept near the fields of one Somjit Singh and had to be taken away in darkness. Believing the information to be true, the informed area was searched and recovery of 03 kgs. 16 grams of heroin, which was wrapped in a black colour polythene bag, was effected. The same was taken into possession by the police. During the course of investigation in case arising out of FIR No. 116 dated 06.11.2023, the present petitioner suffered a disclosure statement to the effect that he had smuggled two bags of heroin from a Pakistani smuggler through drone, which were dropped in the area of Khem Karan. He had picked up one bag and had sold the same but could not collect the second bag, which was eventually recovered by the police. The petitioner was formally arrested in this case on 23.04.2024 by way of issuance of production warrants as he was already in custody in some other case. During further investigation, no evidence could be collected with regard to use of any drone. Accordingly, offences punishable under Sections 10, 11 and 12 of Air Craft Act were deleted. 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. He was neither named in the secret information nor in the FIR. He has been implicated in this case on the basis of the disclosure statement allegedly suffered by him, which cannot be

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considered to be admissible in evidence. In fact, the petitioner was apprehended by the police of Valtaha Police Station on 06.11.2023 and recovery of 600 grams of heroin was falsely planted upon him. There is nothing on record to connect him with the recovery of the contraband in this case. It is further argued that mandatory provisions of the NDPS Act were also not complied with. Even otherwise, investigation has since been completed and challan has been filed. Conclusion of trial is likely to take time as only five out of total sixteen prosecution witnesses have been examined so far. His prolonged detention entitles him to seek bail. No useful purpose would be served by keeping him in custody anymore. His involvement in other cases cannot be made a ground for denying him the benefit of bail in the given circumstances. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

4. Status report and the custody certificate have been filed by the respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations levelled against the petitioner as well as his criminal antecedents, he is not entitled to get benefit of bail as rigors of Section 37 of the NDPS Act would be attracted against him. The petitioner may abscond or involve in committing similar offences again, if extended benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

6. The petitioner was not named either in the secret information or

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in the FIR. His implication in the present case appears to be primarily on the basis of disclosure statement allegedly suffered by him during investigation in another case. At this stage, the evidentiary value of such statement would be a matter to be examined during trial. Except for the said disclosure statement, no independent material has been pointed out to connect the petitioner with the recovery effected in the present case. It is an admitted position that offences under the Air Craft Act stand deleted during the course of investigation. It is also not in dispute that the petitioner has been in custody in the present case since 23.04.2024 and investigation stands completed. The challan has already been presented before the trial Court. Out of total sixteen prosecution witnesses, only five witnesses have been examined so far and, thus, conclusion of trial is likely to take considerable time. 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***

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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

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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 Crminal 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 analysing 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 01 year, 10 months and 08 days and the trial is not likely to be concluded in near future. 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

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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.

10.03.202

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No