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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-71253-2025

Date of decision: 8th April, 2026

Harjinder Singh @ Happy

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Paramjit Singh Bal, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J (ORAL):-

The instant one is the second 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. 166 dated 20.05.2024 registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, '*NDPS Act*') at Police Station City Kharar, District SAS Nagar. His previous petition bearing CRM-M-10305-2025 had been dismissed vide order dated 12.08.2025.

2. As per the allegations, on 20.05.2024, the petitioner was apprehended on the basis of suspicion and recovery of 5220 intoxicating tablets containing Diphenoxylate Hydrochloride and Atropine Sulphate was effected from his conscious possession. He was formally arrested.

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Investigation now stands concluded.

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 long. There are no chances of conclusion of trial in near future. No useful purpose would be served by detaining him in custody anymore. His antecedents are clean. His prolonged incarceration is militating against the provisions of Article 21 of the Constitution of India. Each day spent by him in custody has given rise to a fresh cause of action for seeking bail. It is, therefore, argued that the petition deserves to be allowed.

4. Status report has been filed. Learned State counsel has argued that the previous petition of the petitioner has been dismissed by passing a detailed order and the instant one being successive petition is not maintainable. The rigors of Section 37 of NDPS Act are attracted in this case. There are chances of his absconding or committing similar offences, if extended benefit of bail. Therefore, it is stressed that the petition does not deserve to be allowed.

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

6. The petitioner is in custody since 20.05.2024. The allegations make out a prima facie case for commission of subject offence against him. However, only 04 out of 11 prosecution witnesses have been examined so far. Meaning thereby that there are no chances of conclusion of the trial in near future. 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

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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

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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. So far as the question of maintainability of the petition is concerned, it may be mentioned that an accused has a right to make successive applications for grant of bail, and it is the duty of the Court, while entertaining

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such a subsequent bail application, to consider the reasons and grounds on which the earlier bail petition was rejected. The fresh grounds which persuade the Court to take a view different from the one taken in the earlier application are also required to be recorded. Reference in this regard can be made to ***Prasad Shrikant Purohit v. State of Maharashtra (2018) 11 SCC 458***, wherein it was so observed. The first petition of the petitioner was dismissed as withdrawn on 04.09.2024 and the second petition was dismissed on 12.08.2025. Trial has not progressed much thereafter. 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 about 01 year, 10 months and 19 days, the trial is not likely to be concluded in near future as only 04 out of 11 prosecution witnesses have been 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. As such, the prolonged detention of the petitioner amounts to drastic change in circumstances extending fresh ground to petitioner to seek bail.

11. 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 learned trial Court/CJM/Duty Magistrate

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concerned, 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 Aadhaar card, and shall not change his mobile number(s) during the pendency of the trial.

12. 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.

13. Since the main petition has already been disposed of, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

8th April, 2026
Parveen Sharma

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