

2026:PHHC:013723



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

236

**CRM-M No.73874 of 2025
Date of decision: 30.01.2026**

Balraj Singh alias Kaka

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ashish Aggarwal, Advocate,
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present one is the second petition as filed by the petitioner seeking concession of regular bail in case bearing FIR No.298 dated 31.12.2023, registered under Sections 21 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Section 25 of Arms Act, 1959 (For short "Act, 1959") (Sections 21(c), 23, 25 and 27-A of NDPS Act and Section 25 (6), (7), (8) of Act, 1959 added later on) at Police Station Islamabad, District Amritsar City. His first petition bearing CRM-M-39691-2024 has been dismissed vide order dated

2026:PHHC:013723



10.03.2025.

2. It is argued by learned counsel for the petitioner that ever since the dismissal of his previous petition on 10.03.2025, the trial has not progressed much as no prosecution witness has been examined so far. The co-accused Sarabjit Singh whose case was on similar footing has been extended benefit of bail. On parity as well as on account of his prolonged incarceration, a new ground has been made out in his favour for seeking benefit of bail afresh. It is, thus, argued that he deserves to be released on bail.

3. Status report and custody certificate have been filed. Learned Assistant Advocate General, Punjab has argued that the previous petition filed by the petitioner was dismissed by passing a detailed order. This is a successive petition. There is no drastic change in the circumstances. It is, therefore, stressed that the petition does not deserve to be allowed.

4. This Court has considered the rival submissions.

5. The similarly situated co-accused Sarabjit Singh has been extended benefit of bail. The trial will take time to conclude as no prosecution witness has been examined so far. The petitioner has remained in custody for a period of about 02 years and 23 days. 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

2026:PHHC:013723



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. 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***

2026:PHHC:013723



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.

6. 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 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.

7. 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.

2026:PHHC:013723



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.

8. 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.

9. The similar benefit has been taken 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***.

10. 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 02 years and 23 days, the trial is not likely to be concluded in near future as no prosecution witness has 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.

11. 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.

2026:PHHC:013723



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 learned trial Court/CJM/Duty Magistrate 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.

30.01.2026
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No