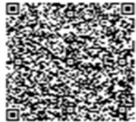




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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-7496-2026

Akashbir Singh

...Petitioner

Versus

State of Punjab

...Respondent

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	12.03.2026
2	The date when the judgment is pronounced	20.03.2026
3	The date when the judgment is uploaded on the website	20.03.2026
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. Jashandeep Singh Sandhu, Advocate for the petitioner.

Mr. Durgesh Garg, Assistant Advocate General, Punjab.

MANISHA BATRA, J :-

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. 115 dated 10.05.2024 registered under Section 21 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') (Sections 27-A and 29 of NDPS Act added later on) at Police Station Gharinda, District Amritsar. His previous



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petition bearing CRM-M-No-31427-2025 had been dismissed as withdrawn vide order dated 04.07.2025.

2. As per the allegations, on 10.05.2024, a police party headed by SI Manjit Singh was present at Drain bridge, village Rajatal, when two youths reached there while riding on a motor bike. They were given signal to stop but they felt perplexed and tried to take a reverse turn. The bike had slipped down. The pillion rider took out a heavy envelop from the right pocket of his pant and tried to throw the same away but he was apprehended along with the driver. On asking, the pillion rider disclosed his name as Aakashbir Singh i.e. the present petitioner and the driver disclosed his name as Bunty. On checking the polythene, 510 grams of heroin was recovered. The phone of the petitioner along with the motor bike and recovered contraband were taken into possession. The petitioner and co-accused were formally arrested. The petitioner suffered disclosure statement, on the basis of which one Varinder Singh @ Kalu was nominated as additional accused. He disclosed that he was in contact with one Pakistani smuggler namely Malik and used to make contact with him on a mobile. He received consignments of the contraband and supplied them further and also used to receive drug money and to deliver it further. Subsequently, co-accused Malik was also nominated and had been arrested. 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. Each day spent by him in custody has given rise

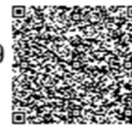


to a fresh cause of action for seeking bail. His further incarceration would not serve any useful purpose. Trial will take considerable time to conclude. His involvement in another case cannot be considered to be a reason for denying benefit of bail to him. It is, therefore, argued that the petition deserves to be allowed.

4. Status report and custody certificate have been filed by respondent-State. It is argued by learned State counsel that commercial quantity of contraband has been recovered at the instance of the petitioner and co-accused. The rigors of Section 37 of NDPS Act are attracted in this case. The petition being a successive one is not maintainable. 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 learned counsel for the parties at considerable length.

6. The petitioner along with the co-accused is alleged to have been found in conscious possession of the commercial quantity of contraband. The allegations make out a *prima facie* case for commission of subject offence as against him. However, he has now been in custody since 13.05.2024. There are no chances of conclusion of trial in near future as not even a single prosecution witness 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 ***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

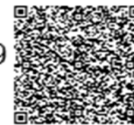


incarcerated for a long period by observing that prolonged incarceration militated against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the constitutional principles must override the statutory embargo contained under Section 37 of the NDPS 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 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 by Hon'ble Supreme Court 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 about 01 year and 10 months, 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 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



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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

20th March, 2026

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*