



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

(108)

**CRM-M-12590-2026 (O&M)
Date of decision : 10.04.2026**

GAGANDEEP SINGH @ GAGGU @ HADI

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rishu Mahajan, Advocate and
Mr. Ajay Kumar, Advocate for the petitioner

Mr. Ruchika Sabherwal, Senior DAG, Punjab

MANISHA BATRA, J. (ORAL)

1. The instant one is the second petition preferred by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") for grant of regular bail in case arising out of FIR No.101 dated 05.09.2023 registered under Sections 21(c), 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act (for short "NDPS Act") and Section 25 of Arms Act at Police Station Kathunangal, District Amritsar.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 05.09.2023, on receipt of a secret information to the effect that Harpreet Singh @ Lovely, who was involved in drug smuggling with



Pakistani smugglers through drone and Raavi river and was coming in a car make Grand i-10 bearing registration number PB-02-EL-7922 from the side of Gurdaspur to sell heroin, a barrier was laid at the informed place by a police party headed by SI Gopal Singh and he was apprehended while coming in the said car. On search of the car recovery of 15 kgs. of heroin was effected. On interrogation, co-accused Harpreet Singh @ Lovely disclosed that he along with Gagandeep Singh @ Gaggu @ Hadi (petitioner), Rahul Singh, Gagandeep Singh and Harpreet Singh @ Happy Jatt were involved in smuggling and sale of heroin. During the course of investigation, the aforesaid car was found to be registered in the name of co-accused Gurwinder Singh @ Guri. He was arrested on 29.09.2023. Some other persons were also arraigned as accused in this case. The petitioner was arrested on 17.12.2023. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid mentioned offences. The previous petition filed by the petitioner had been dismissed on 02.09.2025 passed by this Court.

3. It is argued by learned counsel for the petitioner that after the dismissal of the previous petition the trial has not progressed much as no prosecution witness has been examined so far. There are no chances of conclusion of trial in the near future. He has been in continued detention for a period of 02 years, 03 months and 29 days. The co-accused have already been extended benefit of bail. Each day spent by him in custody has furnished a new



ground to him in his favour to seek concession of bail. It is, therefore, argued that he deserves to be extended benefit of bail.

4. Per contra, learned State counsel while relying upon the status report has argued that there are serious allegations against the petitioner. His previous petition had been dismissed by passing a detailed order. The instant one being a successive petition is not maintainable. He is a habitual offender and there are chances of his committing similar offences, if extended benefit of bail. It is, therefore, argued 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 was nominated in this case on the basis of the disclosure statement of the co-accused and is alleged to be involved in smuggling of heroin with Pakistani smugglers. The allegations against him prima facie make out a case for commission of the subject offences by the petitioner. So far as the question of maintainability of this petition being successive one is concerned, it may be mentioned that, an accused has a right to move successive bail application for grant of bail and it is the duty of the Court, while entertaining such a subsequent bail application, to consider that any fresh ground which persuade it to take a view different from the one taken in the earlier application is made out or not. It is also required to be noted that every day spent by an accused in custody provides a new cause of action for filing a bail application under certain circumstances. He cannot be kept in custody for indefinite period and the bail application can be considered even if it is filed



repeatedly. The denial of bail comes with a condition that the prosecution must press for early completion of the trial. No recovery has been effected from the petitioner. He is in custody since 17.12.2023. The trial will take considerable time to conclude. 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 LiveLaw (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 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 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. 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 a period of 02 years, 03 months and 29 days. The trial is not likely to be concluded in near future as no prosecution witness has been examined so far. 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 to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

13. In the eventuality of breach of any of the aforementioned conditions, the respondent-State shall be at liberty to move an application seeking cancellation of the bail.

14. It is, however, 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.



15. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

10.04.2026
Amit Sharma

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No