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

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Date of decision: 10th April, 2026

Amit @ Amit Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rahul Yadav, Advocate and
Mr. Pardeep Chhoker, Advocate for the petitioner.

Mr. Vikram Singh, AAG, Haryana.

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 arising out of FIR No. 449 dated 24.07.2024, registered under Sections 20 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Samalkha, District Panipat. His previous petition bearing CRM-M- No. 34141-2025 had been dismissed as withdrawn vide order dated 19.11.2025.

2. Brief facts of the case relevant for the disposal of the present petition are that on 24.07.2024, on the basis of a secret information, the petitioner along with co-accused Pardeep Singh, Manish @ Kala, Vishal and



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Dharampal, while coming in a car bearing registration number HR-06-BA-3386, was apprehended by a police party headed by ASI Randeep Singh. On conducting their personal search, no incriminating material was recovered. However, on search of the said car, two plastic bags containing total 34 kgs. of Ganja were recovered. It was revealed that the petitioner and co-accused had hired the car of Dharampal and the latter was not aware about their possession. He was accordingly exonerated. Since the petitioner and co-accused could not produce any valid license or permit to keep in their possession the recovered contraband, they were formally arrested at the spot. Some other persons were also nominated in this case as accused. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. A false recovery was planted upon him and co-accused. He is in custody since 24.07.2024. Investigation has since been completed and challan has been filed. Conclusion of trial is likely to take time as no prosecution witness has been examined so far out of total 23 witnesses. His prolonged detention entitles him to seek bail. No useful purpose would be served by keeping him in custody anymore. Co-accused Anil Yadav, Pardeep Singh, Manish @ Kala and Sunil Kumar have already been granted concession of regular bail by this Court. On parity, he too deserves to be given the same benefit. Therefore, it is urged that the petition deserves to be allowed



and the petitioner deserves to be granted benefit of regular bail.

4. Notice of motion.

5. Learned State counsel has advance notice of the petition. He has placed on record custody certificate and has argued that keeping in view the gravity of the allegations levelled against the petitioner, his criminal antecedents as well as the fact that commercial quantity of contraband was recovered from him, he is not entitled to get benefit of bail as rigors of Section 37 of the NDPS Act would be attracted against him. Moreso, the instant petition, being a successive petition, is not maintainable. 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.

6. This Court has heard the rival submissions.

7. As per the allegations, the petitioner along with abovenamed co-accused was found in conscious possession of commercial quantity of the aforementioned contraband on 24.07.2024. This is the second petition for grant of bail. The previous petition filed by the petitioner, had been dismissed as withdrawn about six months back. The petitioner is in custody for a period for 01 year, 08 months and 17 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 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



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certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the right of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since settled proposition of law is that detention prior to trial should not become punitive. Though, the allegations *prima facie* make out a case for commission of subject offences against the petitioner, however, on a perusal of the record, it is apparent that there are no chances of conclusion of the trial in near future and it will take considerable time as out of total 23 prosecution witnesses, none has been examined so far. The petitioner has remained in custody since long. His involvement in other cases cannot be made a ground for denying him the benefit of bail in the given circumstances. 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 of India and in such a situation, the constitutional principles must override the statutory embargo contained under Section 37 of the NDPS Act.

8. 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.

9. 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.

10. 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.

11. 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***.

12. 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, 08 months and 17 days and the trial is not likely to be concluded in near future as no prosecution witness has been examined so far out of total 23 witnesses. Co-accused have already been granted concession of regular bail as mentioned above. 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



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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 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.

13. 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.

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

[MANISHA BATRA]
JUDGE

10th April, 2026

Parveen Sharma

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