



CRM-M-18332-2026(O&M)

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2026:PHHC:056223

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

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CRM-M-18332-2026(O&M)

Date of decision: 10th April, 2026

Shukar Punn

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Yashpal Thakur, Advocate for the petitioner.

Mr. Roshandeep Singh, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

CRM-14497-2026

Allowed as prayed for.

Main case

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner for grant of regular bail in case bearing FIR No. 0042 dated 09.02.2023, registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station City Kharar, District SAS Nagar.

2. Brief facts relevant for the purpose of disposal of this petition are that on 09.02.2023, the petitioner along with co-accused Narinder Singh was apprehended by a police party and recovery of 02 kgs. of *Charas* was effected from a bag which the petitioner handed over to the co-accused. Both of them were formally arrested at the spot. After completion of necessary investigation



and usual formalities, challan was presented in the Court and presently, the petitioner is facing trial for commission of aforementioned offence.

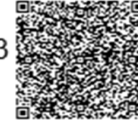
3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case and a false recovery was planted upon him. He is in custody for a period of more than 03 years. There is prolonged pendency of the trial in the present case and there is no likelihood of its conclusion in the near future, particularly as only four out of total eight prosecution witnesses have been examined so far. His antecedents are clean. His continued detention would not serve any useful purpose. With these broad submissions, it is urged that the petition deserves to be allowed.

4. Notice of motion.

5. Learned State counsel has advance notice of the petition and is ready to argue the matter. While relying upon Custody certificate of the petitioner, he has submitted that the gravity of the allegations levelled against the petitioner as well as the fact that commercial quantity of the contraband was recovered from him, he does not deserve to be released on bail. 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. As per the allegations, the petitioner along with the co-accused was found in conscious possession of commercial quantity of contraband on 09.02.2023. 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. He has been in custody for a period of more than 03 years and 02 months. 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 on the observations made by the 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 436A which is applicable to offences under the Act. It was also observed that the 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 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, 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. 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 as observed above, the trial is not likely to be concluded in near future; the continued detention of the petitioner is not likely to serve any fruitful purpose.

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 bonds and surety bonds by two sureties to the satisfaction of the trial Court/Duty Magistrate concerned and on the following conditions:-

(i) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case in any manner whatsoever.

(ii) he shall deposit his passport, if any, with the learned trial Court and shall not leave the country



under any circumstance without permission of the learned trial Court.

(iii) he shall appear before the learned trial Court as and when directed.

(iv) he shall disclose his present as well as permanent address before the learned trial Court at the time of furnishing of bonds and shall not change the same without informing the concerned IO/SHO.

(v) the petitioner shall upon his release give his mobile phone number to concerned IO/SHO and shall keep his mobile phone switched on all times and shall appear before the IO/SHO concerned on the first Monday of every alternate month till conclusion of trial.

13. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.

14. 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.

15. 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