



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

263

**CRM-M-36112-2026 (O&M)
Date of decision : 10.07.2026**

Bhagi Bahadur Gharti

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Chetan Kapoor, Advocate
for the petitioner.

Mr. Durgesh Garg, AAG, Punjab.

MANISHA BATRA, J.(Oral)

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in case bearing FIR No. 130 dated 19.04.2024, registered under Sections 20 and 29 of the NDPS Act, 1985 at Police Station Zirakpur, District SAS Nagar.

2. Brief facts of the case relevant for the disposal of the present petition are that on 19.04.2024, the petitioner along with co-accused Bhim Kumari Rana and Dhanmaya was apprehended by a police party while they were coming together from Ambala-Chandigarh highway towards village Baltana. On conducting search, recovery of 2.5 kgs. of Charas was effected from a bag which was being carried by the petitioner, whereas recovery of 01 kg. of Charas was effected from co-accused Bhim Kumari Rana and the same amount of Charas was recovered from co-accused Dhanmaya. All 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



2026:PHHC:094009



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 and a false recovery has been planted upon him and co-accused. He is in custody for a period of more than two years and two months. There is prolonged pendency of the trial in the present case and there is no likelihood of its conclusion in the near future. He has clean antecedents. His continued detention would not serve any useful purpose. Co-accused, Bhim Kumari Rana and Dhanmaya have already been granted concession of bail by this Court. On parity, the petitioner too deserves to be given the same benefit. 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. Learned State counsel has filed the custody certificate of the petitioner and has argued that taking into consideration the gravity of the allegations levelled against the petitioner as well as the fact that commercial quantity of the contraband was recovered from her and co-accused, he does not deserve to be released on bail. Therefore, it is stressed that the petition is liable to be dismissed.

6. This Court has heard learned counsel for the parties at considerable length.

7. The petitioner along with the co-accused is alleged to have been found in conscious possession of commercial quantity of contraband on 19.04.2024. He is in custody since that very day and has spent a period of more



than two years and two months in custody. 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. The petitioner has remained in custody since long. 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 the order dated 14.11.2025 passed



by the Hon'ble Supreme Court in ***Santosh Pawar Vs. State of Chhattishgarh & Anr., Criminal Appeal No.4883/2025***, wherein it was observed 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 ***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***.



CRM-M-36112-2026 (O&M)

2026:PHHC:094009

2026:PHHC:094009



12. 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; the trial is not likely to be concluded in near future; similarly situated co-accused have already been granted concession of regular bail and the petitioner has clean antecedents. 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 two 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 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.

10.07.2026

Parveen Sharma

**(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No