CNR No: PHHC011162382026
2026:PHHC:113334

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(286) **CRM-M-39516-2026 (O&M)**
Date of Decision:**17.08.2026**

GURKIRPAL SINGH

… Petitioner

Versus

STATE OF HARYANA

... Respondent

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Rajesh Kumar Kashyap, Advocate
for the petitioner.

Mr. Tanuj Sharma, Asstt. AG, Haryana
assisted by ASI Dalbir Singh.

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VIRINDER AGGARWAL, J. (Oral)

1. First Petition under Section 483 of the BNSS, 2023 (corresponding to Section 439 Cr.P.C.) for grant of regular bail to the petitioner in FIR No. 78 dated 10.03.2026 under Sections 21-B and 27-A of the NDPS Act, registered at Police Station City Mandi Dabwali, District Sirsa, during the pendency of trial.

2. Briefly stated, the prosecution case is that on 13.03.2026, co-accused Jagmeet Singh, Bhagwan Singh @ Gauji and Malkeet Singh were apprehended along with 503 grams of heroin from a car in the area of Police Station City Dabwali. During interrogation, they allegedly disclosed that the contraband had been purchased from the present petitioner. On the basis of the said disclosure, the petitioner was subsequently arrested on 09.04.2026, and an amount of ₹5,000/- was

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allegedly recovered from his possession, stated to be the proceeds earned from sale of heroin to the co-accused.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated solely on the basis of the disclosure statements of co-accused Jagmeet Singh, Bhagwan Singh @ Gauji and Malkeet Singh, with no contraband having been recovered from him. It is contended that the alleged recovery of 503 grams of heroin was effected from the co-accused and not from the petitioner, and that the petitioner has been sought to be connected with the alleged recovery only through the disclosure statements of the co-accused. It is further submitted that the statutory safeguards under the NDPS Act, including those relating to search and seizure, were not duly complied with. Learned counsel accordingly contends that, in the absence of any recovery from the petitioner and any independent incriminating material connecting him with the alleged contraband, he deserves the concession of regular bail.

4. Notice of motion.

5. Mr. Tanuj Sharma, learned Assistant Advocate General, accepts notice on behalf of the State of Haryana. The custody certificate produced by learned State counsel is taken on record, subject to all just exceptions.

5.1. Learned State counsel vehemently opposes the prayer for regular bail, contending that the allegations are grave in nature and pertain to recovery of 503 grams of heroin, which falls within the commercial quantity regime. It is submitted that the petitioner is specifically implicated by the co-accused as the alleged supplier of the contraband and

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that, having regard to the nature, gravity and seriousness of the allegations and the manner in which the offence is alleged to have been committed, the petitioner does not deserve the concession of regular bail at this stage. Dismissal of the petition is accordingly prayed for.

6. I have heard learned counsel for the parties and have gone through the paper book minutely with their able assistance.

7. The right to a speedy trial is an integral facet of the fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India. The constitutional mandate is not confined merely to ensuring a fair trial but also obligates the State to conclude criminal proceedings within a reasonable time so that the process itself does not become punitive.

8. The Hon'ble Supreme Court in ***Hussainara Khatoon v. Home Secretary, State of Bihar, 1980 (1) SCC 81***, authoritatively held that the right to a speedy trial is an essential and integral part of Article 21, and that any procedure which permits prolonged incarceration without expeditious trial cannot be regarded as fair, just or reasonable. The aforesaid principles are in consonance with the Constitution Bench decisions in ***A.R. Antulay v. R.S. Nayak, 1992 (1) SCC 225*****,** and ***P. Ramachandra Rao v. State of Karnataka, 2002 (4) SCC 578***, wherein it was held that the right to a speedy trial is a fundamental right flowing from Article 21 and constitutional courts are duty-bound to intervene wherever inordinate and unexplained delay results in denial of substantive justice.

9. Recently, the Hon'ble Supreme Court, in ***Tapas Kumar Palit v. State of Chhattisgarh, 2025 SCC OnLine SC 322*** and in ***Arvind Dham v.***

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Directorate of Enforcement, 2026 (2) SSC(Criminal) 271, the Court categorically held that "the right to a speedy trial, enshrined under Article 21 of the Constitution, is not eclipsed by the nature of the offence." It was further held that prolonged incarceration of an undertrial, without commencement or reasonable progress of the trial, effectively converts pre-trial detention into a form of punishment and cannot be constitutionally sustained. The Court observed that if the State or the prosecuting agency is unable to secure an accused's fundamental right to a speedy trial, it cannot oppose the grant of bail merely on the ground of the seriousness of the allegations, as Article 21 prevails over statutory restrictions where continued incarceration becomes oppressive and unjustified.

10. This constitutional position has acquired greater significance in prosecutions under special statutes containing restrictive bail provisions. The Narcotic Drugs and Psychotropic Substances Act, 1985 is undoubtedly a stringent penal statute enacted to combat the menace of illicit trafficking in narcotic drugs and psychotropic substances. The principle was specifically applied to prosecutions under the **NDPS Act** in ***Mohd. Muslim @ Hussain v. State (NCT of Delhi), 2023 SCC OnLine SC 352***. The Apex Court held that Section 37 of the NDPS Act cannot be construed so rigidly as to compel indefinite incarceration of an undertrial merely because the trial has not progressed. The Court observed that a literal interpretation of Section 37, divorced from constitutional values, would amount to sanctioning punitive detention before conviction. It was emphatically held that where the State is unable to conclude the trial within a reasonable time, the rigours of Section 37 necessarily yield to the constitutional

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mandate of Article 21. The Court further observed that Section 436A Cr.P.C. applies even to prosecutions under special statutes and constitutes an important legislative safeguard against indefinite pre-trial detention.

11. Recently, in ***Rabi Prakash v. State of Odisha, 2023 SCC OnLine SC 1109*** and ***Javed Gulam Nabi Shaikh v. State of Maharashtra, 2024 SCC Online SC 1693***, the Hon'ble Supreme Court reiterated that prolonged incarceration militates against the most cherished fundamental right under Article 21. The Court observed that where the accused has remained in custody for an unduly long period and the trial is nowhere near completion, constitutional liberty must prevail over the statutory embargo contained in Section 37 of the NDPS Act. The Court succinctly held that conditional liberty must override the statutory embargo when the constitutional guarantee itself stands threatened. Similarly, the Apex Court has recently reaffirmed these constitutional principles in.

12. Thus, the legal position that emerges from the above authorities is that while offences under the NDPS Act are undoubtedly grave and the statutory conditions governing bail are stringent, the constitutional guarantee of a speedy trial under Article 21 remains paramount. Courts are required to balance the societal interest in effective prosecution with the individual's fundamental right to personal liberty. Prolonged incarceration of an undertrial without meaningful progress in the trial cannot be justified merely by invoking the rigours of Section 37 of the NDPS Act. In such exceptional circumstances, Constitutional Courts are duty-bound to harmonise the statutory restrictions with the fundamental right to personal liberty and ensure that pre-trial detention does not degenerate into

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punishment before adjudication of guilt. Where delay is inordinate and not attributable to the accused, constitutional courts are empowered to grant appropriate relief so as to prevent violation of Article 21.

13. It is equally relevant to note that while Section 37 prescribes stringent conditions for grant of bail, the NDPS Act itself reflects the legislative intent that such prosecutions should proceed expeditiously. Section 36 empowers the Government to constitute Special Courts for the very purpose of ensuring speedy trial of NDPS offences. Therefore, the statutory scheme itself proceeds on the assumption that greater restrictions on bail are constitutionally sustainable only when accompanied by equally expeditious adjudication. Where the State fails to provide the infrastructure necessary for speedy disposal, continued reliance upon Section 37 alone would produce an unconstitutional imbalance between individual liberty and societal interest. Delay defeats that legislative premise. If trials remain pending for years because of systemic inadequacies, repeated adjournments, non-production of witnesses, or institutional delays not attributable to the accused, continued incarceration ceases to be preventive and assumes a punitive character.

14. In view of the facts and the legal position discussed hereinabove, the present petitioner cannot be subjected to indefinite incarceration merely because the allegations pertain to a commercial quantity under the NDPS Act. The object of pre-trial detention is to secure the presence of the accused during trial and not to inflict punishment before conviction. Once investigation is complete and the delay in trial is not attributable to the

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accused, continued incarceration would amount to pre-trial punishment, which is constitutionally impermissible.

15. The alleged recovery of 503 grams of heroin was effected exclusively from the co-accused, and not from the petitioner. The petitioner's implication in the present case is founded solely upon a disclosure statement made by the co-accused, wherein reference is made to an alleged supplier identified as "Varun Kumar." Learned counsel for the petitioner submits, and not without force, that the record is conspicuously bereft of any material establishing that the petitioner is known by, or identified with, the name "Varun Kumar." In the absence of such foundational linkage, the very identity of the person purportedly referred to as the supplier remains wholly unsubstantiated, rendering the alleged nexus between the petitioner and the disclosure statement a matter of conjecture rather than of evidentiary fact. It is a settled principle of criminal jurisprudence that a disclosure statement of a co-accused, being inherently weak evidence, cannot ordinarily form the sole basis for implicating a person, absent independent corroboration connecting him to the offence. In the present case, no such corroborative material whether by way of recovery, surveillance, financial trail, or otherwise has been placed on record to substantiate the petitioner's complicity. It is further noted that the petitioner has remained under judicial custody since 09.04.2026, and significantly, no recovery of contraband, in any quantity, has been effected from his possession, conscious or otherwise. Additionally, the trial is unlikely to attain finality within a reasonably foreseeable timeframe. In these circumstances, the continued incarceration of the petitioner, in the

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face of an evidentiary edifice built upon an unsubstantiated identification and unsupported by any independent corroborative material, would serve no legitimate penological purpose and would, in effect, reduce pre-trial detention to a form of anticipatory punishment a consequence wholly impermissible in law.

16. For the reasons aforestated, the present petition is **allowed**. The applicant-petitioner is ordered to be released on regular bail, upon his furnishing the requisite bail bonds and surety bonds, in such amount and to the satisfaction of the learned Chief Judicial Magistrate / Illaqa Magistrate / Duty Magistrate concerned, as the case may be, and subject to the following conditions:-

i. The petitioner(s) shall not, directly or indirectly, make any inducement, threat, or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts before the Court or to the Investigating Agency.

ii. The petitioner(s) shall not tamper with the prosecution evidence in any manner whatsoever, nor shall the petitioner(s), directly or indirectly, attempt to influence, intimidate, or contact any prosecution witness.

iii. The petitioner(s) shall not leave the territorial limits of India without obtaining the prior permission of the learned Trial Court. In the event any of the petitioner(s) is in possession of a passport, the particulars thereof shall be furnished before the Investigating Officer as well as the learned Trial Court.

iv. Before accepting the bail and surety bonds, the learned Illaqa Magistrate/Duty Magistrate/C.J.M. concerned shall obtain from the petitioner(s) the permanent residential address as well as the

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present correspondence address, duly supported by appropriate documentary proof. The Investigating Officer shall verify the correctness of the said addresses within 48 hours of the acceptance of the bail bonds and place a verification report on record. In the event any of the addresses is found to be false, fictitious, or incorrect, it shall be open to the prosecution to seek cancellation of the concession of bail in accordance with law.

v. The petitioner(s) shall furnish before the learned Trial Court, either at the time of furnishing the bail bonds or within such period as may be specified by the Court, the Permanent Account Number (PAN), Aadhaar Number, particulars of all operative bank accounts, and a declaration disclosing details of immovable properties, if any. Any concealment of material particulars or furnishing of false information shall constitute a valid ground for seeking cancellation of the concession of bail in accordance with law.

vi. The petitioner(s) shall intimate the Investigating Officer as well as the learned Trial Court, in writing, of any change in residential address or mobile number within seven days of such change.

vii. The petitioner(s) shall not commit any offence of a similar nature during the pendency of the trial and shall remain present before the learned Trial Court on each and every date fixed, unless personal appearance is exempted in accordance with law. The petitioner(s) shall not absent from the proceedings without obtaining prior permission of the learned Trial Court. In the event of violation of any of the aforesaid conditions or unauthorized absence from the trial proceedings, it shall be open to the learned Trial Court to proceed in accordance with law, including cancellation of the

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concession of bail and issuance of appropriate coercive process, including warrants of arrest.

17. In light of the final disposition of the captioned matter, all pending miscellaneous and interconnected applications are hereby deemed disposed of. The adjudication of the primary dispute has spent the force of these ancillary proceedings, rendering them infructuous *ex facie*. Consequently, no independent or supplemental orders are warranted or required in respect thereof.

(VIRINDER AGGARWAL)
JUDGE

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Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No

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