



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

(123)

CRM-M-72791-2025 (O&M)
Date of decision : 20.02.2026

BAMBER SINGH @ NIKKA @ BEMBER SINGH**... Petitioner**

Versus

STATE OF PUNJAB**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Karandeep Singh Sidhu, Advocate for the petitioner

Ms. Sakshi Bakshi, AAG, Punjab

MANISHA BATRA, J. (ORAL)

1. The petitioner is making prayer for granting him concession of bail in case arising out of FIR No.23 dated 18.03.2024 registered under Section 22-C of the Narcotic Drugs and Psychotropic Substances Act (for short "NDPS") (Section 27 and 29 of NDPS added later on) at Police Station Balianwali, District Bathinda, on the allegations, that on 18.03.2024, intoxicating tablets of commercial quantity were recovered from the conscious possession of co-accused Pardeep Singh and as per the disclosure statement suffered by him (Pardeep Singh), those tablets had been supplied by the present petitioner. After being nominated as additional accused, he was arrested on 31.03.2024 and is facing trial now. Previous petitions as filed by the petitioner had been dismissed by this Court.



2. Prayer in this petition has been made prayer for extending benefit of bail on the ground of prolonged incarceration and it is also submitted by learned counsel for the petitioner that now the co-accused Pardeep Singh has also been extended benefit of bail, as such on parity, the petitioner whose case is even at a better footing deserves to be extended the same benefit.

3. Status report and custody certificate have been filed. Learned State counsel has argued that there is no substantive change in the circumstances from the date of the dismissal of his previous petitions and hence the prayer made by the petitioner does not deserve to be accepted.

4. This Court has heard the rival submissions made by learned counsel for both the parties at considerable length.

5. The petitioner has been in custody since 31.03.2024 i.e. for a period of about one year and 11 months. The trial has not progressed much as still 12 prosecution witnesses are to be examined. It is, therefore, apparent that it will take considerable time to conclude. It is well settled proposition of law that an accused cannot be kept in custody for an indefinite period of time and bail application can be considered on its own merit 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 certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the rights of the accused with the requirements of the criminal justice system. 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.

6. 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.

7. 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.

8. 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.

9. 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***.



10. 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 01 year and 11 months. The trial is not likely to be concluded in near future as still 12 prosecution witnesses are to be examined. The co-accused has already been granted concession of bail. On parity, he too deserves to be extended the same benefit. 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.

11. 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.

12. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case.

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 been allowed, pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

20.02.2026

Amit Sharma

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No