

PUNJAB AND HARYANA HIGH COURT

SINGLE BENCH

(Before : Sumeet Goel, J.)

**SATINDERPAL SINGH @ SATINDER SINGH @ SIKANDER AND
ANOTHER**

Vs.

STATE OF PUNJAB

Criminal Miscellaneous (M) No 37018 of 2026

Decided on : 03-08-2026

A. Narcotic Drugs and Psychotropic Substances Act, 1985 — Section 37 — Regular Bail and Delayed Trial — Delayed trial and prolonged incarceration of an undertrial dilute the statutory rigors under Section 37 of the NDPS Act. [Para 6.3, 6.4]

B. Constitution of India, 1950 — Article 21 — Right to Speedy Trial — The right to a speedy trial is an integral facet of fundamental rights guaranteed under Article 21. Overriding statutory bars, conditional liberty must be considered when an undertrial faces prolonged detention without trial completion. [Para 6.4, 6.5]

C. Bail — Consideration of Co-Accused Disclosure and Antecedents — Statements made by co-accused under Section 67 of the NDPS Act carry weak evidentiary value and cannot form the sole basis for conviction. Prior involvement in other offenses alone cannot justify denying regular bail. [Para 6.1, 6.6]

JUDGMENT

Sumeet Goel, J. - Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioners in case FIR No.0061 dated 12.6.2023, under Sections 21-B, 27-A, 29 Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 25 of Arms Act, 1959, registered at Police Station Sadar Gurdaspur, District Gurdaspur.

2. The gravamen of the FIR in question pertains to the recovery of 15 grams of heroin and Rs. 54,44,650/- which has been termed as drug money, 6 pistols, 6 magazines and 39 live cartridges.

3. Learned counsel for the petitioners has submitted that the petitioners have been in custody since 28.06.2023. Learned counsel has further argued that the petitioners have

been falsely implicated in the FIR in question. Learned counsel for the petitioners has further submitted that the mandatory provisions of the NDPS Act have not been complied with, and, therefore, the prosecution case suffers from inherent defects. Learned counsel has further contended that the petitioners have been implicated in the FIR in question primarily on the basis of disclosure statements. Learned counsel has further argued that the trial is procrastinating and folly thereof is not attributable to the petitioners. Learned counsel has further submitted that the petitioners have undergone incarceration for more than 03 years. Accordingly, it is prayed that the petitioners be granted the concession of regular bail.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioners are serious in nature and, thus, he do not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 03.08.2026 in the Court, which is taken on record.

5. I have heard counsels for the rival parties and have gone through the available records of the case.

6. The petitioners were arrested on 28.06.2023 and investigation is being carried out and till date, Challan qua him has not been presented. Total 28 prosecution witnesses have been cited, but none has been examined till date. The rival contentions raised at Bar give rise to debatable issues, which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioners absconding from the process of justice or interfering with the prosecution evidence.

6.1. At this juncture, it would be apposite to refer to a judgment passed by this Court in Anshul Sardana versus State of Punjab, passed in CRM-M-65094-2024 (2025: PHHC:004198), wherein, after relying upon the ratio decidendi of the judgments of the Hon'ble Supreme Court in **Tofan Singh versus State of Tamil Nadu, AIR 2020 Supreme Court 5592; Smt. Najmunisha, Abdul Hamid Chandmiya @ Ladoo Bapu versus State of Gujrat, Narcotics Control Bureau, 2024 INSC 290; State by (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr.', 2022 (1) RCR (Criminal) 762; and Vijay Singh vs. The State of Haryana, bearing Special Leave to Appeal (Crl.) No.(s) 1266/2023, decided on 17.05.2023**, has held thus:

"6.3 It is a well established principle of law that a confession made by a co-accused under Section 67 of the NDPS Act is inherently a very weak piece of evidence. Such statement(s), by themselves, cannot form the sole basis for the conviction of an individual and must be scrutinized with utmost caution in conjunction with other substantive evidence. Moreover, no recovery has been effected from the possession of the petitioner, who has been subsequently implicated as an accused solely on the basis of disclosure statement of the co-accused. However, as regular bail pertains to life and liberty of individual, Courts are obligated to strike a balance between safeguarding personal liberty and ensuring the effective administration of justice as also investigation. The final evidentiary value and admissibility of the disclosure statement made by a co-

accused fall within the domain of the trial Court and are to be adjudicated during the course of the trial in accordance with established principles of law. However, while adjudicating a plea for regular bail, this Court cannot remain oblivious to the circumstances under which the petitioner has been arraigned or implicated, including the nature of the allegations, the evidence linking the petitioner to the offence as well as the specific role attributed to the petitioner in the commission of the alleged offence. A prima facie examination of these factors is essential to ensure that the process of law is not misused, abused or misdirected."

6.2. Further, this Court in the case of **Jaswinder Singh alias Kala versus State of Punjab passed in CRM-M-33729-2025 (2025:PHHC:089161)** has held thus:

"14. As a sequitur to above-said rumination, the following postulates emerge:

(I) (i) A bail plea on merits; in respect of an FIR under NDPS Act of 1985 involving offence(s) under Section 19 or Section 24 or Section 27-A thereof and for offence(s) involving commercial quantity; is essentially required to meet with the rigour(s) of Section 37 of NDPS Act.

(ii) The rigour(s) of Section 37 of NDPS Act do not apply to a bail plea(s) on medical ground(s), interim bail on account of any exigency including the reason of demise of a close family relative etc.

(iii) The rigour(s) of Section 37 of NDPS Act pale into oblivion when bail is sought for on account of long incarceration in view of Article 21 of the Constitution of India i.e. where the bail-applicant has suffered long under-trial custody, the trial is procrastinating and folly thereof is not attributable to such bail-applicant.

II. The twin conditions contained in Section 37(1)(b) of NDPS Act are in addition to the conditions/parameters contained in Cr.P.C./BNSS or any other applicable extant law.

III. The twin conditions contained in Section 37(1)(b) of NDPS Act are cumulative in nature and not alternative i.e. both the conditions are required to be satisfied for a bail-plea to be successful.

IV. For consideration by bail Court of the condition stipulated in Section 37(1)(b)(i) of NDPS Act i.e. "there are reasonable grounds for believing that he is not guilty of such offence":

(i) The bail Court ought to sift through all relevant material, including case-dairy, exclusively for the limited purpose of adjudicating such bail plea.

(ii) Such consideration, concerning the assessment of guilt or innocence, should not mirror the same degree of scrutiny required for an acquittal of the accused at the final adjudication & culmination of trial.

(iii) Plea(s) of defence by applicant-accused, if any, including material/documents in support thereof, may be looked into by the bail-Court while adjudicating such bail plea.

V. For consideration of the condition stipulated in Section 37(1)(b) (ii) i.e. 'he is not likely to commit any offence while on bail':

(i) The word 'likely' ought to be interpreted as requiring a demonstrable and substantial probability of re-offending by the bail-applicant, rather than a mere theoretical one, as no Court can predict future conduct of the bail-applicant.

(ii) The entire factual matrix of a given case including the antecedents of the bail-applicant, role ascribed to him, and the nature of offence are required to be delved into. However, the involvement of bail-applicant in another NDPS/other offence cannot ipso facto result in the conclusion of his propensity for committing offence in the future.

(iii) The bail-Court may, at the time of granting bail, impose upon the applicant-accused a condition that he would submit, at such regular time period/interval as may stipulated by the Court granting bail, an affidavit before concerned Special Judge of NDPS Court/Illaq (Jurisdictional) Judicial Magistrate/concerned Police Station, to the effect that he has not been involved in commission of any offence after being released on bail. In the facts of a given case, imposition of such condition may be considered to be sufficient for satisfaction of condition enumerated in Section 37(1)(b)(ii).

VI. There is no gainsaying that the nature, mode and extent of exercise of power by a Court; while satisfying itself regarding the conditions stipulated in Section 37 of NDPS Act; shall depend upon the judicial discretion exercised by such Court in the facts and circumstances of a given case. No exhaustive guidelines can possibly be laid down as to what would constitute parameters for satisfaction of requirement under Section 37 (ibid) as every case has its own unique facts/circumstances. Making such an attempt is nothing but a utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such matter."

6.3. In this view of the matter, the rigor imposed under Section 37 of the NDPS Act stands diluted.

6.4. The trial is indeed procrastinating and folly thereof cannot be saddled upon the petitioners. As per custody certificate dated 03.08.2026 filed by the learned State counsel, the petitioners have already suffered incarceration for a period of 3 years, 1 month and 6 days. In this view of the matter, the rigor imposed under Section 37 of the NDPS Act stands diluted in light of the Article 21 of the Constitution of India.

6.5. This Court in a judgment titled as **Kulwinder versus State of Punjab passed in CRM-M-64074-2024 (2025:PHHC:002695)**; after relying upon the ratio decidendi of the judgments of the Hon'ble Supreme Court in **Hussainara Khatoon vs. Home Secy., State of Bihar (1980) 1 SCC 81; Abdul Rehman Antulay vs R.S. Nayak (1992) 1 SCC 225; Javed Gulam Nabi Shaikh vs. State of Maharashtra and another, 2024(3) RCR (Criminal) 494; Mohd Muslim @ Hussain vs. State (NCT of Delhi) reported as 2023 INSC 311; Criminal**

Appeal No.245/2020 dated 07.02.2020 titled as "Chitta Biswas Alias Subhas vs. The State of West Bengal"; "Nitish Adhikary @ Bapan vs. The State of West Bengal", Special Leave to Appeal (Crl.) No.5530-2022 dated 22.08.2022 titled as "Mohammad Salman Hanif Shaikh vs. The State of Gujarat"; Criminal Appeal No.1169 of 2022 dated 05.08.2022 titled as Gopal Krishna Patra @ Gopalrusma vs. Union of India, and Ankur Chaudhary vs. State of Madhya Pradesh, 2024(4) RCR (Criminal) 172; has held, thus:

"7.8. The right to a speedy and expeditious trial is not only a vital safeguard to prevent undue and oppressive incarceration; to mitigate anxiety and concern accompanying the accusation as well as to curtail any impairment in the ability of an accused to defend himself, but there is an overarching societal interest paving way for a speedy trial. This right has been repeatedly actuated in the recent past and the ratio decidendi of the above-referred to Supreme Court's judgments have laid down a series of decisions opening up new vistas of fundamental rights. The concept of speedy trial is amalgamated into the Article 21 as an essential part of the fundamental right to life and liberty, guaranteed and preserved under our Constitution. The right to speedy trial begins with the actual restraint imposed at the time of the arrest of the accused and consequent incarceration which continues at all stages, namely, the stage of investigation, inquiry, trial, appeal and revision so that any possible prejudice that may result due to impermissible and avoidable delay since the time of the commission of the offence till the criminal proceedings consummate into a finality, could be averted. The speedy trial, early hearing and quick disposal are sine qua non of criminal jurisprudence. The overcrowded Court-dockets, the heavy volume of work and the resultant pressure on the prosecution and the Police, indubitably keeps the entire criminal jurisprudential mechanism under stress and strain. However, this cannot be an excuse for keeping the sword of Damocles hanging on the accused for an indefinite period of time. It does not serve any credit to the criminal justice system, rather it makes for a sad state of affairs. The guarantee of a speedy trial is intended to avoid oppression and prevent delay by imposing on the Court and the prosecution an obligation to proceed with the trial with a reasonable dispatch. The guarantee serves a threefold purpose. Firstly, it protects the accused against oppressive pre-trial imprisonment; secondly, it relieves the accused of the anxiety and public suspicion due to unresolved criminal charges and lastly, it protects against the risk that evidence will be lost or memories dimmed by the passage of time, thus, impairing the ability of the accused to defend himself. It goes without saying that the consequences of pre-trial detention are grave. Accused, presumed innocent, till proven otherwise, are subjected to psychological and physical deprivations of jail-life, usually under onerous conditions. Equally important, the burden of detention of such an accused frequently falls heavily on the innocent members of his family.

There is yet another aspect of the matter which deserves consideration at this stage. The allegations in the present case relate to accused being involved in an FIR relating to commercial quantity of contraband under the NDPS Act, 1985. While considering a bail petition in a case involving commercial quantity, the Court has to keep in mind the rigours enumerated under Section 37 of NDPS Act,

1985 which mandates that Courts can grant bail to an accused only after hearing the public prosecutor and after having satisfied itself of twin conditions which are reasonable grounds for believing that the accused is not guilty of the offence charged/alleged and that, he is not likely to commit any offence while on bail. The stringent rigours of Section 37 of the NDPS Act, 1985 must be meticulously scrutinized against the backdrop of accused's fundamental right to a speedy trial. The right to life and personal liberty cannot be rendered nugatory by unwarranted delays in the judicial process, particularly where such delay(s) is neither attributable to the accused nor justified at the end of the prosecution by cogent reasons. An individual cannot be kept behind bars for an inordinate period of time by taking refuge in rigours laid down in Section 37 of the NDPS Act, 1985. The legislature in its wisdom, in order to ensure speedy and timely disposal of the cases under the Act, has provided for the constitution of special Courts under Section 36-A of the Act. However, this Court cannot turn Nelson's eye to the protracted delays and systematic inefficiency that frustrate this legislative purpose. A Court of law is duty-bound to ensure that it does not become complicit in violation of an individual's fundamental rights, notwithstanding anything contained in a statute. While dealing with bail petition in a case governed by the rigours of Section 37 of the NDPS Act, 1985, the Court must strike a judicious balance between the legislative intent to curb the menace of drugs and the sacrosanct right of the accused to a fair and expeditious trial. Prolonged incarceration, without justifiable cause, risks transforming pre-trial detention into punitive imprisonment, an outcome antithetical to the principle of justice and equity.

Ergo, the unequivocal inference is that where the trial has failed to conclude within a reasonable time, resulting in prolonged incarceration, it militates against the precious fundamental rights of life and liberty granted under the law and, as such, conditional liberty overriding the statutory embargo created under Section 37 of the NDPS Act, 1985 ought to be considered as per facts of a given case. In other words, grant of bail in a case pertaining to commercial quantity, on the ground of undue delay in trial, cannot be said to be fettered by Section 37 of the NDPS Act, 1985."

6.6 As per the said custody certificate, the petitioner is stated to be involved in other cases/FIRs. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail qua the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in **Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586**; a Division Bench judgment of the Hon'ble Calcutta High Court in case of **Sridhar Das v. State, 1998 (2) RCR (Criminal) 477** & judgments of this Court in **CRM-M No.38822-2022 titled as Akhilesh Singh v. State of Haryana, decided on 29.11.2021**, and **Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191**. Suffice to say, further detention of the petitioners as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioners are ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioners shall remain bound by the following conditions:-

- (i) The petitioners shall not misuse the liberty granted to them.
- (ii) The petitioners shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioners shall not absent themselves from the proceedings on any date fixed before the trial Court without sufficient cause.
- (iv) The petitioners shall not commit any offence while on bail.
- (v) The petitioners shall deposit their passports, if any, with the trial Court.
- (vi) The petitioners shall furnish their respective cell-phone numbers to the Investigating Officer/SHO of the concerned Police Station and shall not change their cell-phone numbers without the prior permission of the trial Court/Illaqha Magistrate.
- (vii) The petitioners shall not, in any manner, attempt to delay the trial.
- (viii) The petitioners shall submit, on the first working day of every month, affidavits before the concerned trial Court to the effect that they have not been involved in the commission of any offence after being released on bail. In the event any of the petitioners are found to have been involved in the commission of any offence after being enlarged on bail in the present FIR, whether on the basis of the affidavit or otherwise, the State shall be at liberty to move forthwith for cancellation of the bail granted to such petitioner, which application shall, of course, be considered on its own merits.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move for cancellation of bail of the petitioners.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.