



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

(233)

CRM-M-38797-2026 (O&M)
Date of Decision:22.07.2026

VISHAL KALYAN @ LOCHA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Kartik Gandhi, Advocate for Mr. Shiv Kumar, Advocate
for the petitioner.

Mr. J.S. Rattu, Advocate
for the respondent(s).

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VIRINDER AGGARWAL, J. (Oral)

1. The present is the second petition instituted under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 439 of the Code of Criminal Procedure, 1973) seeking the concession of regular bail in connection with FIR No. 80 dated 28.07.2025, registered under Sections 21-C, 25, 27-A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Ajitwal, District Moga (*Annexure P-1*). It is pertinent to note that the petitioner's earlier petition for regular bail was dismissed as withdrawn by this Court vide order dated 19.01.2026, and the present petition has been preferred on the basis of the subsequent developments and the grounds urged herein.



2. Briefly stated, the prosecution case is that on 28.07.2025, a recovery of 1 kilogram of heroin was allegedly effected from the conscious possession of co-accused Rahul @ Dagga, son of Jaanti. During the course of investigation, co-accused Vishal Kumar @ Locha came to be nominated under Section 29 of the NDPS Act solely on the basis of the disclosure statement allegedly made by the aforesaid co-accused Rahul @ Dagga. Thereafter, the present petitioner, namely Kulwant Singh, along with co-accused Jaswant Singh @ Sonu, was also nominated under Section 29 of the NDPS Act on the strength of the disclosure statement purportedly suffered by co-accused Vishal Kumar @ Locha, vide DDR No. 18 dated 23.08.2025.

3. Learned counsel appearing for the petitioner contended that the petitioner has been falsely implicated and is neither named in the FIR nor has any contraband been recovered from his conscious possession. His implication rests exclusively upon the disclosure statements of co-accused, which, by themselves, constitute weak and inherently inadmissible material unless corroborated in accordance with law. It is further submitted that the petitioner has remained in judicial custody for approximately ten months and twenty days, no recovery is to be effected from him, and the investigation qua the petitioner stands concluded. Learned counsel further argued that the delay in the conclusion of the trial is wholly attributable to the prosecution and not to the petitioner. Consequently, his continued incarceration for an indefinite period would amount to an unjustified curtailment of his fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India, particularly his constitutional



right to a speedy trial. It is, therefore, prayed that the petitioner be enlarged on regular bail during the pendency of the trial.

4. The custody certificate produced by the learned State counsel is taken on record, subject to all just exceptions.

5. Per contra, learned State counsel has strenuously opposed the petition, submitting that the allegations levelled against the petitioner disclose his active involvement in the commission of serious offences under the Narcotic Drugs and Psychotropic Substances Act, 1985. It is contended that, considering the gravity of the accusations, the magnitude of the offence, the manner of its alleged commission, and the rigours of Section 37 of the NDPS Act, the petitioner has failed to satisfy the statutory conditions governing the grant of bail. It is, therefore, urged that no case for extending the concession of regular bail is made out and the present petition deserves outright dismissal.

6. 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.

7. 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.

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

9. 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 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.

10. 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.

11. 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 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.

12. 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.

13. Having bestowed anxious consideration to the rival submissions and upon a prima facie appraisal of the material available on record, this Court is of the considered opinion that the petitioner cannot be



subjected to prolonged or indefinite incarceration merely because the allegations pertain to a commercial quantity under the Narcotic Drugs and Psychotropic Substances Act, 1985. The settled object of pre-trial detention is to secure the presence of the accused during the course of trial and not to inflict punishment prior to conviction. Once the investigation stands concluded and the delay in the conclusion of the trial is not attributable to the accused, continued incarceration would assume the character of pre-trial punishment, which is constitutionally impermissible and incompatible with the guarantee of personal liberty enshrined under Article 21 of the Constitution of India.

13.1. In the present case, the petitioner is not named in the FIR and has been in judicial custody for approximately ten months and twenty days. Admittedly, no recovery of any contraband or other incriminating material has been effected from his conscious possession. His implication rests solely upon the disclosure statement of a co-accused recorded during the course of investigation, and, prima facie, no independent corroborative material has been brought on record connecting him with the alleged recovery or the commission of the offence. Mere pendency of three other criminal cases against the petitioner, without anything further, cannot, at this stage, operate as an absolute impediment to the grant of bail, particularly when no finding of guilt has been recorded therein.

13.2. It is further not disputed that the investigation stands completed; however, the trial has not meaningfully progressed, as not even a single prosecution witness has been examined till date, as fairly conceded by the learned State counsel. The likelihood of an early conclusion of the trial, therefore, appears remote. In such circumstances, continued detention



of the petitioner would neither advance the cause of justice nor serve any useful investigational purpose. On the contrary, it would infringe the petitioner's fundamental right to a speedy trial, which forms an integral facet of Article 21 of the Constitution of India.

13.3. Accordingly, without expressing any opinion on the merits of the case, lest it prejudice either party during the course of trial, this Court is satisfied that the petitioner has succeeded in making out a case for the grant of the concession of regular bail.

13.4. Consequently, the present petition is allowed, and the applicant-petitioner is ordered to be released on regular bail, subject to his furnishing requisite bail and surety bonds to the satisfaction of the learned Chief Judicial Magistrate concerned/Illaqa Magistrate/Duty Magistrate, as the case may be, and further 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 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 concession of bail and issuance of appropriate coercive process, including warrants of arrest.

14. In view of the fact that the principal matter stands finally adjudicated, all pending miscellaneous applications, if any, arising out of or ancillary to the present proceedings, shall also stand disposed of accordingly. No separate or further orders are required to be passed in respect thereof.

22.07.2026
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No