2025:PHHC:146878

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41621-2025
Reserved on: 10-09-2025
Pronounced on: 28-10-2025

Manjit Singh alias Manna ...Petitioner

Versus

State of Punjab …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Lalit Pathak, Advocate
for the petitioner.

Mr. Jatin Kundu, AAG, Punjab.

****

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
144	29.10.2020	STF, Phase-IV, Mohali, SAS Nagar, Punjab	21, 21C, 25, 27, 27A, 29/61/85 of NDPS Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under §483 BNSS, 2023, seeking regular bail.

2. Per paragraph 11 of the bail petition as well as the reply and the custody certificate, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	39	01.03.2020	21, 22, 23, 25, 27A, 29 of NDPS Act	STF Phase-4, Mohali, SAS Nagar
2.	23	31.01.2020	21, 25, 27A, 29 of NDPS Act	STF (now ANTF), SAS Nagar
3.	RC-26/2020/NIA/DLI		8(C), 21(C), 24, 25, 27(A) of the NDPS Act, 120-B of IPC, and 17,18 of the UAPA Act	NIA Mumbai Police Station

3. On 29.10.2020, the AIG of Mohali Police received secret information that the petitioner Manjit Singh alias Manna and Vishal, along with some of their accomplices, were bringing heroin and ICE from Srinagar in XXX vehicles with registration numbers PB-10FC-XXXX, DL-4C-AF-XXXX. The police set up a barricade and apprehended Manjit Singh, and 6 kg of ICE and 18 kg of heroin were recovered from him. Manjit was

arrested, and during interrogation, the involvement of the co-accused was uncovered. Subsequently, an additional 3 kg of heroin was recovered from him.

4. The petitioner's counsel refers to the bail petition and seeks bail on parity, prolonged custody, and on merits. The State's Counsel opposes bail and refers to the reply.

REASONING:

5. The present application is the fourth bail petition filed by the petitioner before this Court. The plea is primarily based on the grounds of parity, as some co-accused in the matter have already been released on bail. The investigation, as revealed from the reply, primafacie points towards the petitioner's involvement and the petitioner as the main accused from whom the massive quantity of drugs was seized. Given the above, the petitioner is not entitled to bail on the grounds of parity.

6. The petitioner's next grounds are on the merits, prolonged custody, and delayed trial.

7. As per paragraph 14 of the reply, the contraband is 6 kg of ICE and 21 kg (18+3) of heroin.

8. Dealing in 6 kg of ICE in contravention of the NDPS Act, 1985, constitutes an offense under the following provisions and notifications:

Substance Name	METAMFETAMINE/Methamphetamine/ Ice/ Meth
Quantity detained	6 Kg
Punishable U/s	S.22(c) of NDPS Act, 1985
Quantity type	Commercial
Drug Quantity in % to upper limit of Intermediate	12000.00%

Drug's Small & Commercial Qty. suggested by Committee report	
Notification No. & date	Expert Committee Report dated 24.03.1995 & 23.08.2001 (Small and Commercial)

Specified as small & Commercial in S.2(viia) & 2(xxiiia) NDPS Act, 1985		
Notification No. & dated	S.O.1055(E)	10/19/2001
Sr. No.	159	

Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	METAMFETAMINE
Other non-proprietary name	methamphetamine
Chemical Name	(±)-(S)-N,alpha-dimethylphenethylamine, (+)2methylamino-1-Phenylpropane
Small Quantity	< 2 Gram (i.e. equivalent to 0.002 Kg)
Commercial Quantity	> 50 Gram (i.e. equivalent to 0.05 Kg)

Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) & 2(xxiii) NDPS Act, 1985		
Notification No. & dated	NDPS Act, 1985 (61 of 1985), S.O. 821(E)	11/14/1985

Sr. No.	19
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	METHAMPHETAMINE
Other non-proprietary name	******
Chemical Name	(+)-2-Methylamino-1-phenylpropane

9. The petitioner's Counsel submits that the FSL tested ICE negative. Be that as it may, Heroin was also recovered from the petitioner.

10. Dealing in 21 kgs of Heroin in contravention of the NDPS Act, 1985, constitutes an offense under the following provisions and notifications:

Substance Name	Heroin/ Chitta/ Smack/ Brown Sugar/ Diacetylmorphine
Quantity detained	21 Kg
Punishable U/s	S.21(c) of NDPS Act, 1985
Quantity type	Commercial
Drug Quantity in % to upper limit of Intermediate	8400.00%

Drug's Small & Commercial Qty. suggested by Committee report	
Notification No. & date	Expert Committee Report dated 24.03.1995 & 23.08.2001 (Small and Commercial)

Specified as small & Commercial in S.2(viia) & 2(xxiiia) NDPS Act, 1985		
Notification No. & dated	S.O.1055(E)	10/19/2001
Sr. No.	56	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	Heroin	
Other non-proprietary name	******	
Chemical Name	Diacetylmorphine	
Small Quantity	< 5 Gram (i.e. equivalent to 0.005 Kg)	
Commercial Quantity	> 250 Gram (i.e. equivalent to 0.25 Kg)	

Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) & 2(xxiii) NDPS Act, 1985		
Notification No. & dated	S.(xvi)(d) NDPS Act, 1985 (61 of 1985), S.O. 821 (E)	11/14/1985

Sr. No.	2(xvi)(d)
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	******
Other non-proprietary name	******
Chemical Name	2(xvi)(d) diacetylmorphine, that is, the alkaloid also known as dia-morphine or heroin and its salts; Explanation.-- For the purposes of clauses (v) (vi), (xv) and (xvi) the percentages in the case of liquid preparations shall be calculated on the basis that a preparation containing one per cent. of a substance means a preparation in which one gram of substance, if solid, or one mililitre of substance, if liquid, is contained in every one hundred mililitre of the preparation and so on in proportion for any greater or less percentage: Provided that the Central Government may, having regard to the developments in the field of methods of calculating percentages in liquid

	preparations prescribed, by rules, any other basis which it may deem appropriate for such calculation.

11. Whenever the quantity involved is commercial, the statutory rigors of §37[1] of the NDPS Act, 1985 apply, and the accused seeking bail must satisfy its twin conditions. On reading §37 of the NDPS Act, 1985, it is clearly inferable that to curb the drug menace, the legislature added teeth to make bail difficult for commercial quantities, drug financing, etc. The provisions are couched in negative language and explicitly mandate that in order to grant bail, the Court must record a finding that there are reasonable grounds for believing that the petitioner is not guilty of the offence. Even if the Court fulfills one of the conditions, namely, reasonable grounds for believing that the accused is not guilty of such an offense, it still cannot conclude a finding on the assurance that the accused is not likely to commit any such crime again. However, both the twin conditions must be satisfied before a person accused of possessing a commercial quantity of drugs or psychotropic substances is to be released on bail. If either of these conditions is not met, the embargo on granting bail remains in effect. Satisfying the fetters of §37 of the NDPS Act is candling the infertile eggs. The stringent conditions of §37 did not affect the powers of Courts to grant bail but created hurdles by placing a reverse burden on the accused, for specified categories, and once crossed, the bubble of rigors burst, and the factors for bail became similar to the bail petitions under general penal statutes like IPC.

12. The petitioner was caught red-handed, and the investigation revealed sufficient prima facie evidence to connect the petitioner with the crime, and the petitioner has not stated anything in the bail petition to discharge the burden placed in the statute under §37 of the NDPS Act. 1984. All other arguments, except the following, are matters for trial.

13. The petitioner's counsel argued that the petitioner has accrued a right of bail under Article 21 of the Constitution of India because of the delay in the trial. The State's Counsel submitted that the co-accused, who are on bail, are responsible for the delay. An analysis of these arguments would lead to the following outcome:

14. The law of bail, like any other branch of law, has its own philosophy, and occupies an important place in the administration of justice and the concept of bail

[1] **37**. **Offences to be cognizable and non-bailable**.—(*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—
(*a*) every offence punishable under this Act shall be cognizable;
(*b*) no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—
(*i*) the Public Prosecutor has been given an opportunity to oppose the application for such release, and (*ii*) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.
(*2*) The limitations on granting of bail specified in clause (*b*) of sub-section (*1*) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal.[2]In deciding bail applications an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial.—Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? —Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? —Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail.[3] Personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.[4] Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the curial power to negate it is a great trust exercisable, not casually, but judicially with lively concern for the cost to the individual and the community.[5] When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated.[6] The scope of Article 21 of the Constitution of India encompasses the right to a speedy trial and, in its absence, the right to be released on bail due to prolonged pre-trial incarceration.

15. The basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the court[7]. There can be no dispute about this celebrated settled law; however, cases that fall under exception also need to be addressed.

16. However, in the present case, the contraband involved is 21 kg of heroin, which is 84 times more than the highest intermediate quantity. At this stage, the petitioner's custody in the present case, viz-a-viz the quantity of drugs seized, is insufficient to hold that he has accrued a right to bail due to a prolonged trial.

17. In Abdul Rehman Antulay v. R.S. Nayak[8], 1992(1) SCC 225, decided on 10.12.1991, a Constitutional Bench of Hon'ble Supreme Court holds,

---

[2] Supreme Court of India in Vaman Narain Ghiya v. state of Rajasthan, [E-SCR] ; [2008] 17 SCR 369, Para 16, decided on 12.12.2008.

[3]Supreme Court of India in State of Kerala v. Raneef, SC 2J [E-SCR]; [2011] 1 SCR 590, Para 4, decided on 03.01.2011.

[4] Supreme Court of India in Siddharam Satlingappa Mhetre v. State of Maharashtra, SC 2J [E-SCR], Paragraph 127, decided on 02.12.2010.

[5] Supreme Court of India in *Babu Singh & ors v. State of UP*, [E-SCR] P. 777, decided on 31.01.1978.

[6] Supreme Court of India in Sanjay Chandra v. CBI , [2011] 13 (ADDL.) S.C.R. 309, Para 26, [E-SCR], decided on 23.11.2011.

[7] State of Rajasthan, Jaipur v. Balchand, AIR 1977 SC 2447, para 2

[8] Later on, the seven-judges bench of Supreme Court, in Abdul Rehman Antulay v. R.S. Nayak, 1988(2) SCC 602, decided on 29 Apr 1988, did not overrule the speedy trial principles.

[40]. As a matter of fact, right to speedy trial is embedded in the statutory law of this country. Sub-sections (1) and (2) of Section 309, Criminal Procedure Code (corresponding to sub-sections (1) and (IA) of Section 344 of Code of Criminal Procedure, 1898) exemplify this rule.

[54]. In view of the above discussion, the following propositions emerge, meant to serve as guidelines. We must forewarn that these propositions are not exhaustive. It is difficult to foresee all situations. Nor is it possible to lay down any hard and fast rules. These propositions are :

(1). Fair, just and reasonable procedure implicit in Article 21 of the Constitution creates a right in the accused to be tried speedily. Right to speedy trial is the right of the accused. The fact that a speedy trial is also in public interest or that it serves the societal interest also does not make it any-the-less the right of the accused. It is in the interest of all concerned that the guilt or innocence of the accused is determined as quickly as possible in the circumstances.

(2). Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and re-trial. That is how this Court has understood this right and there is no reason to take a restricted view.

(3). The concerns underlying the Right to speedy trial from the point of view of the accused are :

(a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;

(b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and

(c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.

(4). At the same time, one cannot ignore the fact that it is usually the accused who is interested in delaying the proceedings. As is often pointed out, "delay is a known defence tactic". Since the burden of proving the guilt of the accused lies upon the prosecution, delay ordinarily prejudices the prosecution. Non-availability of witnesses, disappearance of evidence by lapse of time really work against the interest of the prosecution. Of course, there may be cases where the prosecution, for whatever reason, also delays the proceedings. Therefore, in every case, where the right to speedy trial is alleged to have been infringed, the first question to be put and answered is -who is responsible for the delay ? Proceedings taken by either party in good faith, to vindicate their rights and interest, as perceived by them, cannot be treated as delaying tactics nor can the time taken in pursuing such proceedings be counted towards delay. It goes without saying that frivolous proceedings or proceedings taken merely for delaying the day of reckoning cannot be treated as proceedings taken in good faith. The mere fact that an application/petition is admitted and an order of stay granted by a superior court is by itself no proof that the proceeding is not a frivolous. Very often these stays obtained on ex parte representation.

(5). While determining whether undue delay has occurred (resulting in violation of Right to Speedy Trial) one must have regard to all the attendant circumstances, including nature of offence, number of accused and witnesses the work-load of the court concerned, prevailing local conditions and so on - what is called, the systematic delays. It is true that it is the obligation of the State to ensure a speedy trial and State includes judiciary as well, but a realistic and practical approach should be adopted in such matters instead of a pedantic one.

(6). Each and every delay does not necessarily prejudice the accused. Some delays may indeed work to his advantage. As has been Observed by Powell, J. in Barker "it cannot be said how long a delay is too long in a system where justice is supposed to be swift but deliberate". The same ideal has been stated by White, J. in U.S. v. Ewell, 1966(15) Law Ed 2d 627, in the following words :

"the sixth amendment right to a speedy trial is necessarily relative, is consistent with delays, and has orderly expedition, rather than mere speed, as its essential ingredients; and whether delay in completing a prosecution amounts to an unconstitutional deprivation of rights depends upon all the circumstances."
However, inordinately long delay may be taken as presumptive proof of prejudice. In this context, the fact of incarceration of accused will also be a relevant fact. The prosecution should not be allowed to become a persecution. But when does the prosecution become persecution, again depends upon the facts of a given case.

(7). We cannot recognize or give effect to, what is called the 'demand' rule. An accused cannot try himself; he is tried by the Court at the behest of the prosecution. Hence, an accused's plea of denial of speedy trial cannot be defeated by saying that the accused did at no time demand a speedy trial. If in a given case, he did make such a demand and yet he was not tried speedily, it would be plus point in his favour, but the mere non-asking for a speedy trial cannot be put against the accused. Even in U.S.A., the relevance of demand rule has been substantially watered down in Barker and other succeeding cases.

(8). Ultimately, the Court has to balance and weigh the several relevant factors - 'balancing test' or 'balancing process' - and determine in each case whether the right to speedy trial has been denied in a given case.

(9). Ordinarily speaking, where the Court comes to the conclusion that Right to speedy trial of an accused has been infringed the charges or the conviction, as the case may be, shall be quashed. But this is not the only course open. The nature of the offence and other circumstances in a given case may be such that quashing of proceedings may not be in the interest of justice. In such a case, it is open to the court to make such other appropriate order -Including an order to conclude the trial within a fixed time where the trial is not concluded or reducing the

> sentence where the trial has concluded - as may be deemed just and equitable in the circumstances of the case.
>
> (10). It is neither advisable nor practicable to fix any time-limit for trial of offences. Any such rule is bound to be qualified one. Such rule cannot also be evolved merely to shift the burden of proving justification on to the shoulders of the prosecution. In every case of complaint of denial of Right to speedy trial, it is primarily for the prosecution to justify and explain the delay. At the same time, it is the duty of the Court to weigh all the circumstances of a given case before pronouncing upon the complaint. The Supreme Court of U. S.A. too has repeatedly refused to fix any such outer time limit in spite of the Sixth Amendment. Nor do we think that not fixing any such outer limit ineffectuates the guarantee of right to speedy trial.
>
> (11). An objection based on denial of Right to speedy trial and for relief on that account, should first be addressed to the High Court. Even if the High Court entertains such a plea, ordinarily it should not stay the proceedings, except in a case of grave and exceptional nature. Such proceedings in High Court, must, however, be disposed of on a priority basis.

18. It is a well-acknowledged principle of criminal jurisprudence that the right to a speedy trial and the right to be released on bail based on prolonged incarceration without likelihood of conclusion of trial are integral facets of Article 21 of the Constitution of India. It implies that whenever an accused is in custody and the criminal trial is delayed, at some stage a right of bail on the grounds of denial of speedy trial would accrue to any accused, despite the heinous nature of offence.

19. While courts lay stress on the right to a speedy trial of the accused, the same is often exploited by some of the accused through superfluous, malicious, and intentional delays, for what can be correctly termed as a methodical violation of Article 21.

20. In the present case, a majority of the co-accused have been granted bail, and as per the investigation, all of them were connected with the offence. Even if any one of them abstains from the trial, it would cause a delay, which might confer an unscrupulously engineered right of bail on the petitioner. This conspiracy must be addressed by the Trial Court so that the Courts do not become a party in delaying the trial.

21. In the present case, despite being released on bail, the co-accused have deliberately avoided appearing before the Trial Court on various dates and because of this, coupled with the other factors, out of 78 witnesses, only 09 have been examined to date, which clearly hints at the misuse of the liberty of bail granted to the co-accused in delaying the disposal of the case.

22. Thus, somewhat calculated non-appearance has stalled proceedings and is now being used to stake an artificial claim to bail by the accused in custody by attempting to

invoke Article 21 in a manner not warranted either by the Constitution of India or by the judicial precedents. To verify such an inference, it shall be relevant to refer to the order sheets of the trial court to assess how the trial has progressed so far.

Sr. No.	Date of Order	Relevant Reason for which the Trial was adjourned Petitioner Manjit Singh is A-1
1)	27-04-2021	Challan presented Production warrants of accused issued
2)	30-04-2021	COVID-19
3)	31-05-2021	COVID-19
4)	18-08-2021	A-1, A-4, A-5, A-7, A-10 is custody, but not produced
5)	04-10-2021	A-1 to A-9 in custody but not produced. **Accused No.10 on bail, but not present**.
6)	22-11-2021	A-1 to A-5, A-6 to A-9 in custody but not produced. Accused No.10 on bail, but not present.
7)	01-12-2021	A-1, A-6, A-7 in custody but not produced.
8)	05-01-2022	All present
9)	24-02-2022	All present
10)	28-03-2022	A-2, A-4, A-5, A-7 in custody but not produced. **Accused No.10 on bail, but not present**
11)	18-05-2022	Adjournment by consent
12)	27-07-2022	A-2, A-4, A-5, A-7 in custody but not produced. **Accused No.10 on bail, but not present**
13)	06-03-2023	A-1, A-6 in custody but not produced.
14)	18-05-2022	A-1 & A-11 in custody but not produced. **Accused No.7 on bail, but not present**
15)	30-08-2022	A-1, A-5, and A-11 in custody but not produced. **Accused No.7 on bail, but not present**
16)	21-09-2022	A-1, A-6, A-11 in custody but not produced.
17)	14-10-2022	A-1, A-5, & A-11 in custody but not produced.
18)	17-11-2022	A-1 to A-6, A-8, A-9, & A-11 in custody but not produced.
19)	07-12-2022	A-1 to A-6, A-8, A-9, & A-11 in custody but not produced.
20)	21-12-2022	A-1, A-3, A-6, A-9, A-11 in custody but not produced.
21)	10-01-2023	A-1, A-3, A-6, & A-11 in custody but not produced.
22)	23-01-2023	A-1, A-6, & A-11 in custody but not produced.
23)	22-02-2023	A-1, A-6, & A-11 in custody but not produced.
24)	22-03-2023	A-1, A-6, & A-11 in custody but not produced.
25)	06-04-2023	A-1, A-6, & A-11 in custody but not produced.
26)	27-04-2023	A-1, A-6, A-11 to 14 in custody but not produced.
27)	20-05-2023	A-1, A-4, A-5, A-6, & A-11 to A-14 in custody but not produced.
28)	06-07-2023	A-1 to A-6, A-9, A-12 to A-14 in custody but not produced.
29)	21-07-2023	A-1, A-2, A-4 to A-6, & A-11 to A-14 in custody but not produced.
30)	05-08-2023	A-1 to A-6, A-9, & A-11 to A-14 in custody but not produced.
31)	17-08-2023	A-1, A-2, A-4 to A-6, A-9, & A-11 to A-14 in custody but not produced.
32)	13-09-2023	A-1, A-4, A-6, & A-11 to A-14 in custody but not produced.
33)	05-10-2023	A-2, A-6, A-11 to A-14 in custody but not produced. Accused No.7 on bail, but not present
34)	30-10-2023	A-1, A-2, A-6, A-11 to A-14 in custody but not produced.
35)	06-11-2023	A-1, A-2, A-6, A-11 to A-14 in custody but not produced.
36)	07-11-2023	A-1, A-6, A-11 to A-14 in custody but not produced.
37)	04-12-2023	A-1, A-2, A-4 to A-6, A-9, A-11 to A-14 in custody but not produced.
38)	04-01-2024	A-1, A-2, A-4 to A-6, A-9, A-11 to A-14 in custody but not produced.
39)	30-01-2024	A-1, A-2, A-4 to A-6, A-9, A-11 to A-14 in custody but not

		produced.
40)	15-02-2024	A-1, A-2, A-4 to A-6, A-9, A-11 to A-14 in custody but not produced.
41)	01-03-2024	A-1, A-2, A-4 to A-6, A-9, A-11 to A-14 in custody but not produced.
42)	11-03-2024	A-1, A-2, A-4 to A-6, A-9, A-11 to A-14 in custody but not produced.
43)	22-03-2024	A-1 to A-6, & A-11 to A-14 in custody but not produced.
44)	06-04-2024	A-1 to A-6, & A-11 to A-14 in custody but not produced.
45)	22-04-2024	A-1 to A-6, A-9, & A-11 to A-14 in custody but not produced.
46)	10-05-2024	A-1 in custody but not produced.
47)	27-05-2024	A-1, A-2, A-4, A-5, A-9, & A-11 to A-13 in custody but not produced.
48)	09-07-2024	Statements of PW-1 to PW-5 recorded
49)	24-07-2024	All present. Statements could not be examined due to power failure
50)	02-08-2024	All present PW-5 to PW-9 examined.
51)	16-08-2024	A-1, A-4, A-5, A-11 to A-13 in custody but not produced. **A-7 & A-9 on bail Absent**
52)	06-09-2024	A-1, A-11 to A-13 in custody but not produced. **A-7 on bail Absent**
53)	30-09-2024	A-1, A-4, A-5, A-11 to A-13 in custody but not produced. **A-7, Who was on bail- PO proceedings pending**
54)	16-11-2024	A-1, A-4, A-5, A-11 to A-13 in custody but not produced. **A-7 declared as P.O. vide order dt. 16.11.2024**
55)	09-12-2024	A-1, A-4, A-5, A-11 to A-13 in custody but not produced.
56)	23-12-2024	A-1, A-4, A-5, A-11 to A-13 13 in custody but not produced.
57)	08-01-2025	A-1, A-11, & A-12 in custody but not produced.
58)	28-01-2025	A-1, A-11 to A-13
59)	06-02-2025	All present PW-5 examined
60)	20-02-2025	A-1, A-4, A-11 to A-13, in custody but not produced.
61)	07-03-2025	A-1, A-4, A-5, A-11 to A-13, in custody but not produced.
62)	25-03-2025	A-1, A-4, A-5, A-11 to A-13, in custody but not produced.
63)	03-04-2025	A-1, A-4, A-5, A-11 & A-12, in custody but not produced. **Accused no. 9, Rajinder Masih, on bail – not present**.
64)	18-04-2025	A-1, A-4, A-5, A-11 to A-13 in custody but not produced. **Accused no. 9, Rajinder Masih, on bail – not present**.
65)	07-05-2025	A-1, A-11 to A-13 in custody but not produced. **Accused no. 9, Rajinder Masih not present – arrest proceedings pending**.
66)	22-05-2025	All accused except A-7 and A-9, who were on bail were present. A-7 was already declared as PO. **Accused no. 9, Rajinder Masih not present – arrest proceedings pending**.
67)	07-07-2025	PW-8 recorded
68)	23-07-2025	A-1, A-4, A-9, A-11, & A-12
69)	06-08-2025	PW-9 Examined. Summons to PW-8 not served.
70)	25-08-2025	BWs to PW ASI Mohammad Sadeek received back unexecuted
71)	08-09-2025	PW-9 Examined Bailable warrant issued against PW ASI Mohammad Sadeek received back unexecuted

23. A bare reading of the reasons for adjournment indicates a lack of coordination, inefficient interoperable software, the non-production of the accused and non-service of official witnesses undermine the judicial process, and the conduct of the co-accused on

bail clearly demonstrates a deliberate attempt to delay the trial. The strategy adopted by the accused appears to be well-planned to delay the proceedings.

24. The repeated non-appearance by those co-accused, who are on bail, reflects a calculated design to obstruct the course of justice and fabricate an artificial semblance of violation to right of speedy trial under Article 21 of the Constitution of India. This is a fake and falsely synthesized right, propounded by the co-accused, who, after securing bail, actively engaged in delaying the trial proceedings, on one pretext or another. This is a deliberate violation of principles of parity, which was designed to ensure equitable treatment of similarly situated accused. Since the delay is self-induced, granting bail would be a wrong precedent.

25. An emerging trend of deep concern is that in serious cases where some of the co-accused, who are on bail, and are accomplices of the gang leader, through a collaborative deceit, engineered by the mafia leaders, engage in dilatory tactics, including non-appearance and seeking unwarranted adjournments to protract the trial, and thereby artificially create a right to bail for those co-accused who are in custody, primarily because they were the main accused and had the lead role as they were the leaders of the mafia. The accused cannot be permitted first to create artificial ground for delay and then take advantage of their own wrongdoing by invoking the constitutional protection under Article 21.

26. Such accused carefully maneuver the system by steering with precision. For instance, when witnesses are present, one such co-accused would absent from the trial, which shall force the presiding judge to adjourn the trial because even as per the newly enacted BNSS, 2023, the trial has to be conducted in the presence of the accused, and there is no express provision that the presence of the counsel shall be the deemed presence of an accused. The reasons for the delay can also be for gaining time to win over witnesses, waiting for the transfer of an unsuitable presiding officer, and should have been curbed under the new Avatar of CrPC, 1973, for the completion of the trial in the presence of the counsel of those co-accused on bail, or their participation through video conference.

27. This strategy creates a methodical violation of Article 21 when the kingpins orchestrate the delay and amounts to an abuse of the process of law. Such instances of the creation of artificial rights must be curbed through swift criminal proceedings, and the Courts must guard against such abuse by imposing stringent conditions for attending the trial.

28. When these cohorts, operating in syndicates, deliberate non-cooperation with the Trial Court with the ulterior objective of delaying the trial, even a single adjournment, should be seen as an attempt to indirectly augment the claim for bail by an accused who

remains in custody. If the co-accused while on bail, employes the liberty, as an instrument to thwart the course of justice-by abstaining from appearance or by willfully engineering delays in the trial- such conduct blatantly strikes at the very root of judicial efficiency and constitutes a manifest abuse of the concession of bail. Once such malafide intention is discernable, it furnishes a sound and sufficient ground for cancelation of bail. This is a just and proportionate remedy, as it reinstates the dignity of the process and ensures that justice is neither delayed nor denied. However, if this approach is extended even to minor offenses, then trial courts will be flooded with unmanageable dockets; as such, it must be applied only to the most heinous and grave offenses. To curb this misuse and uphold both the fairness of procedure and the interest of justice, it is imperative that the remedy must lie not merely in enlarging all on bail, but in expediting the conclusion of the trial so that justice is not held hostage by procedural abuse.

29. In Union of India (NCB) v. Khalil Uddin, 2022 SCC OnLine SC 2109, decided on 21 Oct 2022, the contraband was 13 kg of morphine, and the Hon'ble Supreme Court while setting aside the order of bail passed by the High Court, directed the Trial Court to take up the matter and conclude the proceedings as early as possible and preferably within six months.

30. In Narayan Takri v. State of Odisha, decided on 10 Sep 2024, SLP (Crl.) 8198-2024, the contraband was 125.3 kg. of Ganja, and the Hon'ble Supreme Court did not overturn the order of rejection of bail but observed that if the trial is not completed by the end of this year, (i.e. within 3 ½ months), the petitioners shall be at liberty to renew their prayer for bail before the trial court.

31. An analysis of the ground realities discussed above, to stop the creation of an artificial right of bail, would need directions to expedite trials in heinous offences, and when the quantity is massive.

32. The question now arises is that under the NDPS Act, which of the drug or psychotropic substances, and in excess of what weight, can be categorized as dangerous to expedite the trial?

33. To figure out the legislative intention beyond how much weight a harsher sentence is provided for, it shall be relevant to refer to §31-A[9] NDPS Act, 1985, which reads as follows:

> 31A. Death penalty for certain offences after previous conviction.—
> (1) Notwithstanding anything contained in section 31, if any person who has been convicted of the commission of, or attempt to commit,

[9] Indian Harm Reduction Network v. Union of India and Others, 2011 SCC OnLine Bom 715, [Para 93], Decided on June 16, 2011, a Division Bench of Bombay High Court Section 31-A be construed as directory by reading down the expression "shall be punishable with death" as "may be punishable with death" in relation to the offences covered under Section 31-A of the Act. But, in appropriate cases, the Court can award death penalty for the offences covered by Section 31-A, upon recording reasons therefor.

or abetment of, or criminal conspiracy to commit, any of the offences punishable under section 19, section 24, section 27A and for offences involving commercial quantity of any narcotic drug or psychotropic substance, is subsequently convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, an offence relating to,—

(a) engaging in the production, manufacture, possession, transportation, import into India, export from India or transhipment, of the narcotic drugs or psychotropic substances specified under column (1) of the Table below and involving the quantity which is equal to or more than the quantity indicated against each such drug or substance, as specified in column (2) of the said Table:

TABLE

	Particulars of narcotic drugs/psychotropic substances	Quantity
(i)	Opium	10 kgs.
(ii)	Morphine	1 kg.
(iii)	Heroin	1 kg.
(iv)	Codeine	1 kg.
(v)	Thebaine	1 kg.
(vi)	Cocaine	500 grams
(vii)	Hashish	20 kgs.
(viii)	Any mixture with or without any neutral material of any of the above drugs	lesser of the quantity between the quantities given against the respective narcotic drugs or psychotropic substances mentioned above forming part of the mixture]
(ix)	LSD, LSD-25 (+) - N, N-Diethyllyser gamide (d-lysergic acid diethylamide)	500 grams
(x)	THC (Tetrahydrocannabinols, the following Isomers: 6a (10a), 6a (7),7,8,9,10,9 (11) and their stereochemical variants)	500 grams
(xi)	Methamphetamine(+)-2-Methylamine-l-Phenylpropane	1,500 gram
(xii)	Methaqualone (2-Methyl-3-0-tolyl-4-(3h—)quinazolinone)	1,500 gram
(xiii)	Amphetamine (+)-2-amino-1-phenylpropane	1,500 gram
(ivx)	Salts and preparations of the psychotropic substances mentioned in (ix) to (xiii)	1,500 gram;

(b) financing, directly or indirectly, any of the activities specified in clause (a),

shall be punished with punishment which shall not be less than the punishment specified in section 31 or with death.

> (2) Where any person is convicted by a competent court of criminal jurisdiction outside India under any law corresponding to the provisions of Section 19, section 24 or section 27A and for offences involving commercial quality of any narcotic drug or psychotropic substance, such person, in respect of such conviction, shall be dealt with for the purposes of sub-section (1) as if he had been convicted by a court in India.

34. An analysis of the manufactured drugs and psychotropic substances mentioned in the table captioned above points towards a massive difference in multipliers to the commercial quantity. To understand the arbitrary variance in the multipliers, it is relevant to refer to the same table again by assigning the multiplier value in its last column.

	Name and other particulars of narcotic drugs/psychotropic substances	**Quantity to attract enhanced sentence as per S. 31A of NDPS Act**	**Small Quantity** notified under the NDPS Act	**Commercial Quantity** notified under the NDPS Act	Drug Quantity in **% to the upper limit** of Intermediate	**Multiplier of the commercial quantity**
(i)	**Opium**	10 kgs.	< 25 Grams	> 2500 Grams	400%	**4 Times**
(ii)	**Morphine**	1 kg.	< 5 Grams	> 250 Grams	400%	**4 Times**
(iii)	**Heroin**	1 kg.	< 5 Grams	> 250 Grams	400%	**4 Times**
(iv)	**Codeine**	1 kg.	< 10 Grams	> 1000 Grams	100%	**1 Time**
(v)	**Thebaine**	1 kg.	< 2 Grams	> 100 Grams	1000%	**10 Times**
(vi)	**Cocaine**	500 grams	< 2 Grams	> 100 Grams	500%	**5 Times**
(vii)	**Hashish** [Cannabis and cannabis resin/ Charas/ Hashish/ Sulpha]	20 kgs.	< 100 Grams	> 1000 Grams	2000%	**20 Times**
(ix)	**LSD**, LSD-25 (+) - N, N-Diethyllyser gamide (d-lysergic acid diethylamide)	500 grams	< 0.002 Gram	> 0.1 Gram	500000%	**5000 Times**
(x)	**THC** (Tetrahydrocannabinols, the following Isomers: 6a (10a), 6a (7),7,8,9,10,9 (11) and their stereochemical variants)	500 grams	< 2 Grams	> 50 Grams	1000%	**10 Times**
(xi)	**Methamphetamine**(+)-2-Methylamine-l-Phenylpropane	1500 grams	< 2 Grams	> 50 Grams	3000%	**30 Times**
(xii)	**Methaqualone** (2-Methyl-3-0-tolyl-4-(3h —)quinazolinone)	1,500 grams	< 20 Grams	> 500 Grams	300%	**3 Times**
(xiii)	**Amphetamine** (+)-2-amino-1-phenylpropane	1,500 grams	< 2 Grams	> 50 Grams	3000%	**30 Times**

35. After analyzing multipliers, which range from **one time** (for **Codeine, w**hich is used in Cough Syrups) to **five thousand times** (for **LSD**, which is one of the most dangerous drugs), on the face of it, it is illogical, disproportionate, and the threshold limits are arbitrary, unreasonable, and without any legal or scientific basis.

36. Given the disproportionate weights, the courts cannot use the weights mentioned in §31A of the NDPS Act, 1985, as a cutoff limit to expedite trials in drugs and psychotropic substances prohibited under the NDPS Act. The remedy is to devise a formula based on logic and common sense and proceed further.

37. The most significant consistency in the drugs mentioned in §31A is the non-inclusion of herbal drugs, like Poppy straw, Bhang, Coca leaves, and Catha Edulis. Conversely, some medicine drugs like Cough Syrup, which contains around 2% of Codeine Phosphate, but given the notification SO 2941(E), dated 18-Nov-2009, the entire weight is now being considered for sentence, and if the weight mentioned in the table of §31A is taken, then 9/10 bottles of cough syrup will weigh 1 kg. As such, it must be given a liberal interpretation. Similarly, the drugs being sold as medicines cannot be equated with hard drugs. Thus, a larger multiplier would be justiciable to all these cough syrups, herbal and medicinal drugs (except in raw form, which means no or less neutral substance), in comparison to a lesser multiplier for all other hard drugs. Consequently, by adopting an extremely pragmatic and compassionate approach, **1000 or more bottles of cough syrup**, 100 ml each, containing approximately 2% of codeine phosphate; and in the case of herbal drugs namely **Poppy straw, Opium, Bhang, Charas, Coca leaves, and Catha Edulis, and medicinal drugs in tablet or medicinal form and not in raw or powder form**, if the weight is more than Twenty-five times (**25 Times**) of commercial; and in **all other** drugs, medicinal drugs in raw and powder form, and psychotropic substances, when the weight is more than Ten times (**10 Times**) of commercial, then the trial must be expedited.

38. In relation to the weight of the contraband as specified hereinbefore, to ensure that the trial is not delayed in the categories mentioned above, the Special Courts/ Sessions Court must take, supervise, and ensure the following steps:

> **(I).** The laboratories must prioritize the testing. The Director/ Dy Directors of the laboratory where the sample was sent for testing shall be accountable if there is any unusual delay in testing of the sample in the categories mentioned above and forwarding of FSL report, the SSP/Commissioner of Police concerned shall bring it to the notice of the Secretary Home or the Secretary concerned.
>
> **(II).** The investigation must be prioritized and completed, and prosecution must be launched as soon as possible, not waiting for the statutory 180 days. Whenever an accused is granted default bail under Section 187 of the BNSS, 2023, the investigative agency must enquire into the non-filing of the police report through an officer of the IPS cadre.
>
> **(III).** If the accused in custody is not produced before the trial Court, either

physically or through a virtual platform, the reasons for non-production/ non-appearance must be enquired into by an officer of the Deputy Inspector General of Prisons where the accused is in custody in a prison in Punjab or Haryana; and the Inspector General of Police [Prisons] when in Chandigarh.

(IV). If the trial is delayed because of a videoconference failure, internet connectivity issues, or infrastructure issues like power failure, etc., the trial Court must inform the Principal Sessions Judge where the infrastructure has failed, who should consider reporting it directly to the Registrar Computers, and the CPC [Central Project Co-Ordinator].

(V). Whenever any accused, who is on bail, fails to appear, physically or virtually in accordance with the permission, the bail must be cancelled, except when such an accused seeks exemption by filing an application that they shall have no objection if the trial is conducted in their absence and they shall raise no dispute regarding their identity, and undertaking not to claim any prejudice if the trial proceeds in their absence. Needless to say, subject to the conditions mentioned above, in all cases where the accused is a security risk, holds a sensitive position, or is in emergency, sensitive, or defence services, or is a celebrity, or has a severe medical condition, the exemption must be granted, and the denial must be by passing a reasoned order on the application for exemption and their appearance be made through any virtual platform.

(VI). If any official witness fails to appear upon service of summons/warrants without a justifiable cause before the trial court, then in the case of police personnel, the trial Court must inform the concerned Commissioner of Police/Senior Superintendent of Police and consider suitable action. If the witness is a Superintendent of Police or a higher officer, the officer's superior in the hierarchy must be informed of the conduct of such an official. Similarly, for non-police official witnesses, their superior officers must be informed of their conduct. In the case of others, strict steps must be taken to ensure their service and presence.

(VII). If the Public Prosecutor or the Counsel representing the prosecution tries to delay the trial, the conduct should be brought to the notice of the concerned Director of Prosecution, or any similarly placed officer.

(VIII). If the Trial Judge is of the opinion that the Defence Counsel is intentionally delaying the trial, then, for such an accused, the Legal Aid Counsel should also be appointed in addition to the accused's Counsel.

However, it is clarified that the Legal Aid Counsel shall automatically be discharged upon the appearance of the Defence Counsel. The legal aid counsel shall be entitled to a legal aid fee as per the proportion of the appearance and services rendered. The witnesses whose examination has started, efforts should be made to complete their evidence on a day-to-day basis.

(IX). Finally, if the trial is continuously delayed due to the concerned trial Judge, the concerned Principal Sessions Judge must inform the Administrative Judge/Portfolio Judge.

39. These directions shall come into force from January 01, 2026.

40. In High Court Bar Association, Allahabad v. State of U.P. & Ors., 2024-INSC-150, decided on 29-02-2024, a Constitutional bench of the Hon'ble Supreme Court holds,

> [33]. The Courts, superior in the judicial hierarchy, cannot interfere with the day-to-day functioning of the other Courts by directing that only certain cases should be decided out of turn within a time frame. In a sense, no Court of law is inferior to the other. This Court is not superior to the High Courts in the judicial hierarchy. Therefore, the Judges of the High Courts should be allowed to set their priorities on a rational basis. Thus, as far as setting the outer limit is concerned, it should be best left to the concerned Courts unless there are very extraordinary circumstances.

41. When the quantity of drugs is massive, the Courts must expedite the trials, and if any of the co-accused, who is on bail, delays the trial, in order to render real Justice to all, one of the steps is to revoke the bail granted to the co-accused, who is instrumental in the delay. An under-trial prisoner who artificially delays the trial by devising tactics shall not be entitled to claim bail for the prolonged trial. Justice delayed is justice denied; but when delay is self-engineered, Article 21 becomes a shield of convenience, not a sword of liberty.

42. The umbrella of fundamental rights in the Indian Constitution safeguards not only the liberty of the accused but also the timely and due administration of justice; however, concerted manipulation by bail petitioners and their co-accused acting as cohorts cannot be permitted to stall the court proceedings, creating a mirage of prejudice through deliberate and crafted delays in cases of heinous offences. When liberty is used as a cover for lawlessness, the Court has both the authority and the responsibility to act and to prevent the criminal justice system from losing its integrity, fairness, and effectiveness. When a safeguard is misused as a tool for personal gains, it ceases to serve its protective role and instead operates in a manner diametrical to the very purpose it was designed to uphold.

43. This is one such case where the trial must be expedited.

44. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

45. Registry to send digital copies of this order to all the Sessions Judges/Additional Sessions Judges of the States of Punjab, Haryana, and UT Chandigarh; and also to the Director General of Police for the State of Haryana, Punjab, and U.T. Chandigarh, to consider internal communications to their officers.

46. All Special Courts of the States of Punjab, Haryana, and the Union Territory of Chandigarh under the NDPS Act, 1985, are requested to consider expediting trials in the NDPS cases involving commercial quantities that fall into the categories mentioned above.

47. Petition dismissed. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

28-10-2025
anju rani/AK/*Jyoti II*/Jyoti Sharma

Whether speaking/reasoned	YES
Whether reportable	**YES**