THE LAW LEDGER

The Fortnightly e-journal

DELHI POLICE ACADEMY

SLP (CRL.) NO.5020 OF 2026
DATE OF JUDGEMENT: 24 APRIL 2026

39th Edition
July 2026



"In cases involving commercial quantity under the NDPS Act, bail cannot ordinarily be granted without satisfying the twin conditions prescribed under Section 37 of the NDPS Act, despite prolonged custody or trial delay."
- the Supreme Court reaffirms.

STATE OF PUNJAB VS. SUKHWINDER SINGH @ GORA, SUPREME COURT OF INDIA

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Facts of the case

- On 10.01.2024, during a naka operation near Village Veeram, District Tarn Taran, a Mahindra XUV-300 was intercepted and its occupants were apprehended.
- Search resulted in recovery of 1.465 kg heroin, a commercial quantity under the NDPS Act. Charges under Sections 21(c) and 29 NDPS Act were framed on 20.07.2024.
- The respondents' second bail petitions under Section 483 BNSS were allowed by the Punjab & Haryana High Court, mainly on the grounds of prolonged custody, slow trial progress and the Article 21 right to speedy trial.
- The State challenged the bail orders before the Supreme Court.

Issues

1. Whether bail could be granted in a commercial-quantity NDPS case without recording satisfaction of the mandatory twin conditions under Section 37(1)(b)(ii) NDPS Act?
2. Whether prolonged incarceration and delay in trial can, by themselves, dilute the statutory restrictions under Section 37?
3. Whether the High Court properly considered the respondents' criminal antecedents and earlier bail applications?
4. Whether incomplete disclosure of previous bail proceedings justified interference with the bail orders?

Decision of the Court

The Supreme Court allowed the appeals and set aside the High Court's bail orders.

- The High Court had failed to record the mandatory satisfaction regarding the twin conditions under Section 37(1)(b)(ii) NDPS Act.
- The right to speedy trial under Article 21 cannot be used, by itself, to override the statutory requirements of Section 37 in cases involving commercial quantity.
- The High Court also failed to adequately consider the respondents' previous bail applications and relevant criminal antecedents.
- The respondents were directed to surrender before the Trial Court within one week, with liberty to apply afresh for regular bail.



Ratio Decidendi

1. Section 37 is mandatory: In cases involving commercial quantity under the NDPS Act, bail can be granted only after the Court records satisfaction of both statutory conditions:
   - o reasonable grounds exist to believe that the accused is not guilty; and
   - o the accused is not likely to commit any offence while on bail.
2. Speedy trial does not override Section 37: Article 21 and Section 37 must be read harmoniously; prolonged incarceration alone does not dispense with the mandatory requirements of Section 37.
3. Full disclosure is essential: A person seeking discretionary bail must approach the Court with clean hands and complete candour, including full particulars of earlier bail proceedings.
4. Successive bail applications: Where a subsequent bail application is filed, the Court must consider the outcome of the earlier application and any change in circumstances justifying reconsideration.

Significance

- Reaffirms the strict and mandatory nature of Section 37 NDPS Act in commercial-quantity cases.
- Clarifies that delay in trial or prolonged custody alone cannot dilute Section 37.
- Emphasises that courts must record specific satisfaction regarding the twin statutory conditions before granting bail.
- Reinforces the duty of an accused to make complete and candid disclosure of previous bail proceedings and criminal antecedents.
- Highlights the need for greater judicial caution while granting bail in commercial-quantity NDPS cases, particularly where criminal antecedents exist.

