IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 3030 of 2025
Reserved on: 24.02.2026.
Date of Decision: 02.03.2026.

Raman Kumar @ Rambo ....Petitioner

Versus

State of H.P. .... Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] No.

For the Petitioner	:	Mr Chetan Thakur, Advocate, vice Mr Arun Sehgal, Advocate.
For the Respondent	:	Mr Ajit Sharma, Deputy Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking regular bail in FIR No. 13 of 2025, dated 15.01.2025, registered at Police Station Dharamshala, District Kangra, H.P., for the commission of an offence punishable under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

2. It has been asserted that, as per the prosecution, the police were on patrolling duty on 15.01.2025. They saw the petitioner carrying a backpack coming from Dadnu. He tried to run away after seeing the police. The police apprehended him, and the petitioner identified himself as Raman Kumar (present petitioner), in the presence of an independent witness. The police checked the backpack and recovered heroin from it. Police arrested the petitioner and seized the heroin. The allegations made against the petitioner are false. The quantity of heroin stated to have been recovered from the possession of the accused is an intermediate quantity, and the rigours of Section 37 of the NDPS Act do not apply to the present case. The petitioner would abide by the terms and conditions that the Court may impose. Hence, it was prayed that the present petition be allowed and the petitioner be released on bail.

3. The petition is opposed by filing a status report asserting that the police were on patrolling duty on 15.01.2025. They saw the petitioner coming from Dadnu towards Badol at about 5.25 P.M. The petitioner tried to run away after seeing the police. The police apprehended the petitioner, and he identified himself as

Raman Kumar in the presence of an independent witness. The police checked the backpack and recovered 10 grams of heroin. The police arrested the petitioner and seized the heroin. Heroin was sent to the SFSL, Junga and as per the report, it was found to be a sample of Diacetylmorphine (heroin). FIR Nos. 71 of 2018, 23 of 2019, 135 of 2019 and 43 of 2024 are pending against the petitioner. Petitioner would indulge in the commission of similar offences in case of his release on bail. A charge sheet was filed before the learned Trial Court on 10.03.2025, and the matter was listed for the recording of statements of the witnesses on 28.02.2026. Hence, the status report.

4. I have heard Mr Chetan Thakur, learned counsel for the petitioner and Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State.

5. Mr Chetan Thakur, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The petitioner was arrested on 15.01.2025, and more than one year has lapsed since then. The prosecution has failed to complete the evidence, and the petitioner's right to a speedy trial is

being violated. The petitioner would abide by all the terms and conditions that the Court may impose; hence, he prayed that the present petition be allowed, and the petitioner be released on bail.

6. Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State, submitted that the petitioner was involved in the commission of a similar offence, and he is likely to indulge in the commission of a similar offence in case of his release on bail. Hence, he prayed that the present petition be dismissed.

7. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

8. The parameters for granting bail were considered by the Hon'ble Supreme Court in ***Pinki v. State of U.P., (2025) 7 SCC 314: 2025 SCC OnLine SC 781,*** wherein it was observed at page 380:

> **(*i*) *Broad principles for the grant of bail***
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> **56.** In ***Gudikanti Narasimhulu v. High Court of A.P., (1978) 1 SCC 240: 1978 SCC (Cri) 115***, Krishna Iyer, J., while elaborating on the content of Article 21 of the Constitution of India in the context of personal liberty of a person under trial, has laid down the key factors that should be considered while granting bail, which are extracted as under: (SCC p. 244, paras 7-9)
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> > "7. It is thus obvious that the nature of the charge is the vital factor, and the nature of the evidence is also

pertinent. The punishment to which the party may be liable, if convicted or a conviction is confirmed, also bears upon the issue.

8. Another relevant factor is whether the course of justice would be thwarted by him who seeks the benignant jurisdiction of the Court to be freed for the time being. [***Patrick Devlin, "The Criminal Prosecution in England"*** (Oxford University Press, London 1960) p. 75 — Modern Law Review, Vol. 81, Jan. 1968, p. 54.]

9. Thus, the legal principles and practice validate the Court considering the likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice. It is not only traditional but rational, in this context, to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail. In regard to habituals, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further crimes on the members of society. Bail discretion, on the basis of evidence about the criminal record of a defendant, is therefore not an exercise in irrelevance." (emphasis supplied)

57. In ***Prahlad Singh Bhati v. State (NCT of Delhi), (2001) 4 SCC 280: 2001 SCC (Cri) 674***, this Court highlighted various aspects that the courts should keep in mind while dealing with an application seeking bail. The same may be extracted as follows: (SCC pp. 284-85, para 8)

"*8. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles, having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the*

accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy it (sic itself) as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge." (emphasis supplied)

58. This Court in ***Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598: 2002 SCC (Cri) 688***, speaking through Banerjee, J., emphasised that a court exercising discretion in matters of bail has to undertake the same judiciously. In highlighting that bail should not be granted as a matter of course, bereft of cogent reasoning, this Court observed as follows: (SCC p. 602, para 3)

"*3. Grant of bail, though being a discretionary order, but, however, calls for the exercise of such a discretion in a judicious manner and not as a matter of course. An order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts do always vary from case to case. While the placement of the accused in society, though it may be considered by itself, cannot be a guiding factor in the matter of grant of bail, the same should always be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — the more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter*." (emphasis supplied)

59. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528: 2004 SCC (Cri) 1977***, this Court held that although it is established that a court considering a bail application cannot undertake a detailed examination of evidence and an elaborate discussion on the merits of the case, yet the court is required to indicate the prima facie reasons justifying the grant of bail.

60. In Prasanta ***Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496: (2011) 3 SCC (Cri) 765***, this Court observed that where a High Court has granted bail mechanically, the said order would suffer from the vice of non-application of mind, rendering it illegal. This Court held as under with regard to the circumstances under which an order granting bail may be set aside. In doing so, the factors which ought to have guided the Court's decision to grant bail have also been detailed as under: (SCC p. 499, para 9)

> "*9. … It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are*:
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> (*i*) *whether there is any prima facie or reasonable ground to believe that the accused had committed the offence*;
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> (*ii*) *nature and gravity of the accusation*;
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> (*iii*) *severity of the punishment in the event of conviction*;
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> (*iv*) *danger of the accused absconding or fleeing, if released on bail*;
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> (*v*) *character, behaviour, means, position and standing of the accused*;
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> (*vi*) *likelihood of the offence being repeated*;
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> (*vii*) *reasonable apprehension of the witnesses being influenced; and*

(*viii*) *danger, of course, of justice being thwarted by grant of bail*." (emphasis supplied)

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62. One of the judgments of this Court on the aspect of application of mind and requirement of judicious exercise of discretion in arriving at an order granting bail to the accused is ***Brijmani Devi v. Pappu Kumar, (2022) 4 SCC 497 : (2022) 2 SCC (Cri) 170***, wherein a three-Judge Bench of this Court, while setting aside an unreasoned and casual order (***Pappu Kumar v. State of Bihar, 2021 SCC OnLine Pat 2856*** and ***Pappu Singh v. State of Bihar, 2021 SCC OnLine Pat 2857***) of the High Court granting bail to the accused, observed as follows: (***Brijmani Devi v. Pappu Kumar, (2022) 4 SCC 497 : (2022) 2 SCC (Cri) 170]***), SCC p. 511, para 35)

"*35. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record to enable a court to arrive at a prima facie conclusion. While considering an application for the grant of bail, a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence(s) alleged against an accused*." (emphasis supplied)

9. The present petition has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

10. The status report mentions that the petitioner was coming from Dadnu to Badol, and he tried to run away after seeing the police. The police apprehended him and recovered 10 grams of heroin from the backpack carried by the petitioner. These allegations *prima facie* show the petitioner's involvement in the commission of an offence punishable under Section 21(b) of the NDPS Act.

11. The Central Government has prescribed 5 grams of heroin to be a small quantity and 250 grams of heroin as a commercial quantity. Therefore, the petitioner was found in possession of an intermediate quantity of heroin, and the rigours of Section 37 of the NDPS Act do not apply to the present case.

12. The petitioner was arrested on 15.01.2025. He has undergone imprisonment for more than one year. If the principle of proportionality is applied, the petitioner has undergone a substantial part of the imprisonment that can be awarded to him in case of his conviction.

13. Status report shows that the charge sheet was filed before the Court on 10th March, 2025, and the matter was listed

before the learned trial Court on 28.02.2026. The status report does not mention whether any witness has been examined or not; hence, the apprehension of the petitioner that his trial is not likely to be concluded at the earliest has some substance.

14. It was laid down by the Hon'ble Supreme Court in ***Javed Gulam Nabi Shaikh v. State of Maharashtra (2024) 9 SCC 813: 2024 SCC OnLine SC 1693*** that when the State or any prosecuting agency including the Court concerned has no wherewithal to provide the right to speedy trial of the accused, the bail should not be opposed on the ground that crime committed is serious. It was observed at page 820:

> **17.** If the State or any prosecuting agency, including the court concerned, has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution, then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.
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> **18.** We may hasten to add that the petitioner is still an accused, not a convict. The overarching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, however stringent the penal law may be.

> **19.** We are convinced that the manner in which the prosecuting agency, as well as the Court, have proceeded, the right of the accused to have a speedy trial could be said to have been infringed, thereby violating Article 21 of the Constitution.

15. It was held in ***Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291: (2015) 2 SCC (L&S) 455: 2015 SCC OnLine SC 127*** that the right to a speedy trial is a fundamental right of the accused. It was observed at page 298:

> "**13.** Article 12 of the Universal Declaration of Human Rights, 1948, assures that:
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> > "**12**. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."
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> **14.** More recently, the European Convention on Human Rights in Article 6(1) promises that:
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> > "**6. (1)** In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time…."
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> And in its second sub-article, that:
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> "**6. (2)** Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law."
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> **15.** The Supreme Court of the United States struck down the use of *nolle prosequi*, an indefinite but ominous and

omnipresent postponement of civil or criminal prosecution in ***Klopfer v. North Carolina [18 L Ed 2d 1: 386 US 213 (1967)]***.

16. In ***Kartar Singh v. State of Punjab [(1994) 3 SCC 569: 1994 SCC (Cri) 899]*** the Constitution Bench of this Court unequivocally construed the right of speedy trial as a fundamental right, and we can do no better than extract these paragraphs from that celebrated decision: (SCC pp. 638-39, paras 86-87)

> "*86*. The concept of speedy trial is read into 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 by arrest and consequent incarceration and continues at all stages, namely, the stage of the investigation, inquiry, trial, appeal and revision so that any possible prejudice that may result from the impermissible and avoidable delay from the time of the commission of the offence till it consummates into a finality, can be averted. In this context, it may be noted that the constitutional guarantee of a speedy trial is properly reflected in Section 309 of the Code of Criminal Procedure.
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> *87*. This Court in ***Hussainara Khatoon (1) v. State of Bihar [(1980) 1 SCC 81: 1980 SCC (Cri) 23],*** while dealing with Article 21 of the Constitution of India, has observed thus: (SCC p. 89, para 5)
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> > '*5*. … No procedure which does not ensure a reasonably quick trial can be regarded as "reasonable, fair or just" and it would fall foul of Article 21. There can, therefore, be no doubt that a speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. The question

> which would, however, arise is as to what would be the consequence if a person accused of an offence is denied a speedy trial and is sought to be deprived of his liberty by imprisonment as a result of a long-delayed trial in violation of his fundamental right under Article 21. Would he be entitled to be released unconditionally, freed from the charge levelled against him on the ground that trying him after an unduly long period of time and convicting him after such a trial would constitute a violation of his fundamental right under Article 21?"

> **17.** The legal expectation of expedition and diligence being present at every stage of a criminal trial and a fortiori in departmental enquiries has been emphasised by this Court on numerous occasions. The Constitution Bench in ***Abdul Rehman Antulay v. R.S. Nayak [(1992) 1 SCC 225: 1992 SCC (Cri) 93]*** underscored that this right to speedy trial is implicit in Article 21 of the Constitution and is also reflected in Section 309 of the Code of Criminal Procedure, 1973; that it encompasses all stages viz. investigation, inquiry, trial, appeal, revision and retrial; that the burden lies on the prosecution to justify and explain the delay; that the Court must engage in a balancing test to determine whether this right had been denied in the particular case before it."

16. It was held in ***Shaheen Welfare Association. v. Union of India, (1996) 2 SCC 616: 1996 SCC (Cri) 366*** that a person cannot be kept behind bars when there is no prospect of trial being concluded expeditiously. It was observed at page 621:

> "**8.** It is in this context that it has become necessary to grant some relief to those persons who have been deprived of their personal liberty for a considerable length of time without any

> prospect of the trial being concluded in the near future. Undoubtedly, the safety of the community and the nation needs to be safeguarded, looking to the nature of the offences these undertrials have been charged with. But the ultimate justification for such deprivation of liberty pending trial can only be their being found guilty of the offences for which they have been charged. If such a finding is not likely to be arrived at within a reasonable time, some relief becomes necessary."

17. Similarly, it was laid down by the Hon'ble Supreme Court in ***Jagjeet Singh v. Ashish Mishra*, *(2022) 9 SCC 321: (2022) 3 SCC (Cri) 560: 2022 SCC OnLine SC 453*** that no accused can be subjected to unending detention pending trial. It was observed at page 335:

> **"40.** Having held so, we cannot be oblivious to what has been urged on behalf of the respondent-accused that cancellation of bail by this Court is likely to be construed as an indefinite foreclosure of his right to seek bail. It is not necessary to dwell upon the wealth of case law which, regardless of the stringent provisions in a penal law or the gravity of the offence, has time and again recognised the legitimacy of seeking liberty from incarceration. To put it differently, no accused can be subjected to unending detention pending trial, especially when the law presumes him to be innocent until proven guilty. Even where statutory provisions expressly bar the grant of bail, such as in cases under the Unlawful Activities (Prevention) Act, 1967, this Court has expressly ruled that after a reasonably long period of incarceration, or for any other valid reason, such stringent provisions will melt down, and cannot be measured over and above the right of liberty guaranteed under Article 21 of the Constitution

> (see ***Union of India v. K.A. Najeeb [Union of India v. K.A. Najeeb, (2021) 3 SCC 713***, paras 15 and 17])."

18. It was laid down in ***Mohd. Muslim v. State (NCT of Delhi), (2023) 18 SCC 166: 2023 SCC OnLine SC 352,*** that the right to a speedy trial is a constitutional right of an accused. The right of bail is curtailed on the premise that the trial would be concluded expeditiously. It was observed at page 174: -

> **13.** When provisions of law curtail the right of an accused to secure bail, and correspondingly fetter judicial discretion (like Section 37 of the NDPS Act, in the present case), this Court has upheld them for conflating two competing values i.e. the right of the accused to enjoy freedom, based on the presumption of innocence, and societal interest — as observed in ***Vaman Narain Ghiya v. State of Rajasthan [Vaman Narain Ghiya v. State of Rajasthan, (2009) 2 SCC 281: (2009) 1 SCC (Cri) 745: (2008) 17 SCR 369]*** ("*the concept 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*...."). They are, at the same time, upheld on the condition that the trial is concluded expeditiously. The Constitution Bench in ***Kartar Singh v. State of Punjab [Kartar Singh v. State of Punjab, (1994) 3 SCC 569: 1994 SCC (Cri) 899: (1994) 2 SCR 375]*** made observations to this effect. In the ***Shaheen Welfare Association. v. Union of India [Shaheen Welfare Assn. v. Union of India, (1996) 2 SCC 616: 1996 SCC (Cri) 366: (1996) 2 SCR 1123]*** again, this Court expressed the same sentiment, namely, that when stringent provisions are enacted, curtailing the provisions of bail, and restricting judicial discretion, it is on the basis that investigation and trials would be concluded swiftly. The Court said that

parliamentary intervention is based on: ***(Shaheen Welfare case [Shaheen Welfare Assn. v. Union of India, (1996) 2 SCC 616: 1996 SCC (Cri) 366: (1996) 2 SCR 1123]***, SCC p. 624, para 17)

> "*17*. … a conscious decision has been taken by the legislature to sacrifice to some extent, the personal liberty of an undertrial accused for the sake of protecting the community and the nation against terrorist and disruptive activities or other activities harmful to society, it is all the more necessary that investigation of such crimes is done efficiently and an adequate number of Designated Courts are set up to bring to book persons accused of such serious crimes. This is the only way in which society can be protected against harmful activities. This would also ensure that persons ultimately found innocent are not unnecessarily kept in jail for long periods."

19. The Court highlighted the effects of pre-trial detention and the importance of a speedy trial as under at page 178:

> **"23.** Before parting, it would be important to reflect that laws which impose stringent conditions for the grant of bail may be necessary in the public interest; yet, if trials are not concluded in time, the injustice wreaked on the individual is immeasurable. Jails are overcrowded, and their living conditions, more often than not, are appalling. According to the Union Home Ministry's response to Parliament, the National Crime Records Bureau had recorded that as on 31-12-2021, over 5,54,034 prisoners were lodged in jails against a total capacity of 4,25,069 prisoners in the country [National Crime Records Bureau, Prison Statistics in India <https://ncrb.gov.in/sites/default/files/PSI-2021/Executive_ncrb_Summary-2021.pdf>]. Of these, 1,22,852 were convicts; the rest, 4,27,165, were undertrials.

24. The danger of unjust imprisonment is that inmates are at risk of “prisonisation”, a term described by the Kerala High Court in ***A Convict Prisoner v. State [A Convict Prisoner v. State, 1993 SCC OnLine Ker 127: 1993 Cri LJ 3242***] as “*a radical transformation*” whereby the prisoner: (SCC OnLine Ker para 13)

“*13*. … loses his identity. He is known by a number. He loses personal possessions. He has no personal relationships. Psychological problems result from loss of freedom, status, possessions, dignity and autonomy of personal life. The inmate culture of prison turns out to be dreadful. The prisoner becomes hostile by ordinary standards. Self-perception changes.”

25. There is a further danger of the prisoner turning to crime, “*as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal*” [Working Papers - Group on Prisons & Borstals - 1966 U.K.] (also see Donald Clemmer's “*The Prison Community*” published in 1940 [Donald Clemmer, *The Prison Community* (1968) Holt, Rinehart & Winston, which is referred to in Tomasz Sobecki, “Donald Clemmer's Concept of Prisonisation”, available at:<https://www.tkp.edu.pl/wpcontent/uploads/2020/12/Sobecki_sklad.pdf> (accessed on 23-3-2023).]). Incarceration has further deleterious effects, where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts, therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials—especially in cases where special laws enact stringent provisions- are taken up and concluded speedily.”

20. It was laid down by the Hon’ble Supreme Court in ***Javed Gulam Nabi Shaikh*** (supra) that the right to speedy trial of the

offenders facing criminal charges is an important facet of Article 21 of the Constitution of India, and inordinate delay in the conclusion of the trial entitles the accused to the grant of bail. It was observed at page 817: -

> "**10.** Long back, in ***Hussainara Khatoon (1) v. State of Bihar [Hussainara Khatoon (1) v. State of Bihar, (1980) 1 SCC 81: 1980 SCC (Cri) 23]***, this Court had declared that the right to speedy trial of offenders facing criminal charges is "implicit in the broad sweep and content of Article 21 as interpreted by this Court". Remarking that a valid procedure under Article 21 is one which contains a procedure that is "reasonable, fair and just", it was held that: (SCC p. 89, para 5)
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> > "*5*. … Now obviously procedure prescribed by law for depriving a person of liberty cannot be "reasonable, fair or just" unless that procedure ensures a speedy trial for determination of the guilt of such person. No procedure which does not ensure a reasonably quick trial can be regarded as "reasonable, fair or just" and it would fall foul of Article 21. There can, therefore, be no doubt that a speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. The question which would, however, arise is as to what would be the consequence if a person accused of an offence is denied a speedy trial and is sought to be deprived of his liberty by imprisonment as a result of a long-delayed trial in violation of his fundamental right under Article 21."
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> **11.** The aforesaid observations have resonated, time and again, in several judgments, such as ***Kadra Pahadiya v. State of Bihar [Kadra Pahadiya v. State of Bihar, (1981) 3 SCC 671:***

1981 SCC (Cri) 791] and ***Abdul Rehman Antulay v. R.S. Nayak [Abdul Rehman Antulay v. R.S. Nayak, (1992) 1 SCC 225: 1992 SCC (Cri) 93]***. In the latter, the court re-emphasised the right to a speedy trial and further held that an accused, facing a prolonged trial, has no option: (***Abdul Rehman Antulay case [Abdul Rehman Antulay v. R.S. Nayak, (1992) 1 SCC 225: 1992 SCC (Cri) 93]***, SCC p. 269, para 84)

> "*84*. … The State or complainant prosecutes him. It is, thus, the obligation of the State or the complainant, as the case may be, to proceed with the case with reasonable promptitude. Particularly, in this country, where the large majority of accused come from poorer and weaker sections of society, not versed in the ways of law, where they do not often get competent legal advice, the application of the said rule is wholly inadvisable. Of course, in a given case, if an accused demands a speedy trial and yet he is not given one, it may be a relevant factor in his favour. But we cannot disentitle an accused from complaining of infringement of his right to a speedy trial on the ground that he did not ask for or insist upon a speedy trial."

21. This position was reiterated in ***Balwinder Singh v. State of Punjab, 2024 SCC OnLine SC 4354,*** wherein it was observed:

> **7.** An accused has a right to a fair trial, and while a hurried trial is frowned upon as it may not give sufficient time to prepare for the defence, an inordinate delay in the conclusion of the trial would infringe the right of an accused guaranteed under Article 21 of the Constitution.
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> **8.** It is not for nothing that the Author Oscar Wilde, in "The Ballad of Reading Gaol", wrote the following poignant lines while being incarcerated:
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> "I know not whether Laws be right,

Or whether Laws be wrong;

All that we know who be in jail

Is that the wall is strong;

And that each day is like a year,

A year whose days are long."

22. It was held in ***Athar Parwez v. Union of India*, *(2024) 20 SCC 57: 2024 SCC OnLine SC 3762*** that long incarceration and the delay in the conclusion of the trial will entitle the accused to bail. It was observed at page 63:

> **19.** Long incarceration and the unlikely likelihood of the trial being completed in the near future have also been taken as a ground for exercising its constitutional role by the constitutional courts to grant bail on violation of Article 21 of the Constitution of India, which guarantees trial be concluded within a reasonable time. Gross delay in conclusion of the trial would justify such invocation, leading to a conclusion of violation of Part III of the Constitution of India, which may be taken as a ground to release an undertrial on bail.
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> *****
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> **21.** At the initial stage, the legislative policy needs to be appreciated and followed by the courts. Keeping the statutory provisions in mind, but with the passage of time, the effect of that statutory provision would, in fact, have to be diluted, giving way to the mandate of Part III of the Constitution, where the accused, as of now, is not a convict and is facing the charges. Constitutional right of speedy trial in such circumstances will have precedence over the bar/strict provisions of the statute and cannot be made the sole reason for denial of bail. Therefore, the period of incarceration of an accused could also be a relevant factor to be considered by the consti-

> tutional courts, not to be merely governed by the statutory provisions.

23. It was laid down by the Hon'ble Supreme Court in ***Tapas Kumar Palit v. State of Chhattisgarh, 2025 SCC OnLine SC 322*** that the accused has a right to an expeditious trial. It was observed:

> **10.** However, many times we have made ourselves very clear that howsoever serious a crime may be, the accused has a fundamental right of speedy trial as enshrined in Article 21 of the Constitution.

24. Hence, the petitioner is entitled to bail because of the violation of his right to a speedy trial.

25. It was submitted that the petitioner has criminal antecedents and he is not entitled to bail on this consideration. This submission will not help the State. It was laid down by the Hon'ble Supreme Court in ***Ayub Khan v. State of Rajasthan, 2024 SCC OnLine SC 3763: 2024:INSC:994*** that the criminal antecedents may not be a reason to deny bail to the accused in case of long incarceration. It was observed:

> "**10.** The presence of the antecedents of the accused is only one of the several considerations for deciding the prayer for bail made by him. In a given case, if the accused makes out a strong *prima facie* case, depending upon the fact situation and period of incarceration, the presence of antecedents

> may not be a ground to deny bail. There may be a case where a Court can grant bail only on the grounds of long incarceration. The presence of antecedents may not be relevant in such a case. In a given case, the Court may grant default bail. Again, the antecedents of the accused are irrelevant in such a case. Thus, depending upon the peculiar facts, the Court can grant bail notwithstanding the existence of the antecedents."

26. In view of the above, the present petition is allowed, and the petitioner is ordered to be released on bail in the sum of ₹1,00,000/- with one surety of the like amount to the satisfaction of the learned Trial Court. While on bail, the petitioner will abide by the following terms and conditions: -

(I) The petitioner will not intimidate the witnesses, nor will he influence any evidence in any manner whatsoever;

(II) The petitioner shall attend the trial on each and every hearing and will not seek unnecessary adjournments;

(III) The petitioner will not leave the present address for a continuous period of seven days without furnishing the address of the intended visit to the SHO concerned, the Police Station concerned and the Trial Court;

(IV) The petitioner will surrender his passport, if any, to the Court; and

(V) The petitioner will furnish his mobile number and social media contact to the Police and the Court and will abide by the summons/notices received from the Police/Court through SMS/WhatsApp/Social Media

Account. In case of any change in the mobile number or social media accounts, the same will be intimated to the Police/Court within five days from the date of the change.

27. It is expressly made clear that in case of violation of any of these conditions, the prosecution will have the right to file a petition for cancellation of the bail.

28. The petition stands accordingly disposed of. A copy of this order be sent to the Jail Superintendent, Lala Lajpat Rai District Jail, Dharamshala and the learned Trial Court by FASTER.

29. The observations made hereinabove are regarding the disposal of this petition and will have no bearing, whatsoever, on the case's merits.

(Rakesh Kainthla)
Judge

02 March, 2026.
(jai)