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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 927 of 2026

Decided on: 7.7.2026

Rajesh Kumar .... Petitioner

Versus

State of HP .... Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] No.

For the Petitioner : Mr Anubhav Chopra, Advocate.

For the Respondent/State : Mr Ajit Sharma, Deputy Advocate General.

Rakesh Kainthla, Judge (Oral)

The petitioner has filed the present petition seeking regular bail in FIR No. 34 of 2024 dated 12.02.2024, registered at Police Station Bhuntar, District Kullu, H.P., for the commission of an offence punishable under Section 21 of the Narcotic Drugs and Psychotropic Substances Act (NDPS)

2. It has been asserted that, as per the prosecution, the police were on patrolling duty on 12.02.2024. They noticed the

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

petitioner sitting in a rain shelter near the bus stop Bada Bhuien at about 03.00 a.m. The petitioner ran away and threw a packet after seeing the police. The police apprehended the petitioner, searched the packet, and found 62 grams of heroin in it. The police arrested the petitioner and seized the heroin. The police filed the charge sheet after the completion of the investigation. The prosecution has cited 12 witnesses, out of whom 6 have been examined. The petitioner has remained in custody for about 2 years, and his further incarceration is not justified. A bail petition was filed before this Court, which was registered as Cr.MP(M) No. 1076 of 2025 and was dismissed by the Court on 21.07.2025. The prosecution has failed to complete the evidence. Therefore, the petition was filed to seek regular bail.

3. The petition is opposed by filing a status report asserting that the police party was on patrolling duty on 12.02.2024. The police reached the bus stop Bada Bhuien at 03:00 am. The petitioner was sitting inside the rain shelter. He ran away after seeing the police. He took something out of his pocket and threw it. The police apprehended the petitioner, and he identified himself as Rajesh Kumar. The police picked up the packet thrown by the petitioner and found 62 grams of heroin in

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it. The police seized the heroin and sent it to FSL. As per the report of the analysis, it was found to be a sample of diacetylmorphine. FIR Nos 07/19 dated 06.01.2019, 17/22 dated 05.03.2022, 10/22 dated 01.07.2022 and 39/23 dated 18.04.2023 have been registered against the petitioner for the commission of offences punishable under the NDPS Act. The statements of the 06 witness out of 12 cited by the prosecution have been recorded. The matter was listed for recording the statements of prosecution witnesses on 6.6.2026. Hence, the status report.

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

5. Mr Anubhav Chopra, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The prosecution has failed to complete the evidence despite the lapse of more than 2 years since the petitioner's arrest. The petitioner will abide by 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.

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6. Mr Ajit Sharma, learned Deputy Advocate General for the respondent-State, submitted that the petitioner was found in possession of 62 grams of heroin, which is a huge quantity. He had earlier approached this Court for regular bail, and his petition was dismissed by the Court. His subsequent bail petition only lies when there is a change in the circumstances. The petitioner has failed to prove any change in the circumstances. 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. It is undisputed that the petitioner had filed a bail petition before this Court, which was registered as Cr.MP(M) No. 1076 of 2025 and was dismissed on 21.07.2025. It was rightly submitted on behalf of the State that a subsequent bail petition only lies when there is a change in the circumstances. It was held in the ***State of Maharashtra. Captain Buddhikota Subha Rao (1989) Suppl. 2 SCC 605,*** that once a bail application has been dismissed, a subsequent bail application can only be considered if there is a change of circumstances. It was observed:

> "Once that application was rejected, there was no question of granting a similar prayer. That is virtually overruling the earlier

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> decision without there being a change in the fact situation. And when we speak of change, we mean a substantial one, which has a direct impact on the earlier decision and not merely cosmetic changes, which are of little or no consequence. 'Between the two orders, there was a gap of only two days, and it is nobody's case that during these two days, drastic changes had taken place necessitating the release of the respondent on bail. Judicial discipline, propriety and comity demanded that the impugned order should not have been passed, reversing all earlier orders, including the one rendered by Puranik, J., only a couple of days before, in the absence of any substantial change in the fact situation. In such cases, it is necessary to act with restraint and circumspection so that the process of the Court is not abused by a litigant and an impression does not gain ground that the litigant has either successfully avoided one judge or selected another to secure an order which had hitherto eluded him.

9. Similarly, it was held in ***Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav (2004) 7 SCC 528*** that where an earlier bail application has been rejected, the Court has to consider the rejection of the earlier bail application and then consider why the subsequent bail application should be allowed. It was held:

> "11. In regard to cases where earlier bail applications have been rejected, there is a further onus on the court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration, if the court is of the opinion that bail has to be granted then the said court will have to give specific reasons why in spite of such earlier rejection the subsequent bail application should be granted."

10. A similar view was taken in ***State of T.N. v. S.A. Raja, (2005) 8 SCC 380***, wherein it was observed:

> **9.** When a learned Single Judge of the same court had denied bail to the respondent for certain reasons, and that order was unsuccessfully challenged before the appellate forum, without there being any major change of circumstances, another fresh application should not have been dealt with within a short span of time unless there were valid grounds giving rise to a tenable case for bail. Of course, the principles of *res judicata* are not applicable to bail applications, but the repeated filing of bail applications without there being any change of circumstances would lead to bad precedents.

11. This position was reiterated in ***Prasad Shrikant Purohit v. State of Maharashtra (2018) 11 SCC 458***, wherein it was observed:

> **30.** Before concluding, we must note that though an accused has a right to make successive applications for the grant of bail, the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.

12. It was held in ***Ajay Rajaram Hinge v. State of Maharashtra, 2023 SCC OnLine Bom 1551,*** that a successive bail application can be filed if there is a material change in the circumstances, which means a change in the facts or the law. It was observed:

> **7.** It needs to be noted that the right to file successive bail applications accrues to the applicant only on the existence of a material change in circumstances. The sine qua non for filing subsequent bail applications is a material change in circumstances. A material change in circumstances settled by law is a change in the fact situation or law that requires the earlier view to be interfered with or where the earlier finding

> has become obsolete. However, a change in circumstance has no bearing on the salutary principle of judicial propriety that successive bail applications need to be decided by the same Judge on the merits, if available at the place of sitting. There needs to be clarity between the power of a judge to consider the application and a person's right based on a material change in circumstances. A material change in circumstance creates in a person accused of an offence the right to file a fresh bail application. But the power to decide such a subsequent application operates in a completely different sphere, unconnected with the facts of a case. Such power is based on the well-settled and judicially recognised principle that if successive bail applications on the same subject are permitted to be disposed of by different Judges, there would be conflicting orders, and the litigant would be pestering every Judge till he gets an order to his liking resulting in the credibility of the Court and the confidence of the other side being put in issue and there would be wastage of Court's time and that judicial discipline requires that such matter must be placed before the same Judge, if he is available, for orders. The satisfaction of material change in circumstances needs to be adjudicated by the same Judge who had earlier decided the application. Therefore, the same Judge needs to adjudicate whether there is a change in circumstance as claimed by the applicant, which entitles him to file a subsequent bail application."

13. This Court had found earlier that the petitioner was *prima facie* found in possession of 62 grams of heroin. He had criminal antecedents, and he was not entitled to bail. These considerations have not changed.

14. It was submitted that the petitioner was falsely implicated, and no recovery was effected from him. This submission cannot be accepted in the present proceedings. It was laid down by the Hon'ble Supreme Court in ***State of M.P. v. Kajad,***

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(2001) 7 SCC 673: 2001 SCC (Cri) 1520: 2001 SCC OnLine SC 1070, that it is impermissible to review the earlier order of bail in the subsequent bail petition, and the Court can only consider the change in circumstances. It was observed at page 676:

> **8.** It has further to be noted that the factum of the rejection of his earlier bail application bearing Miscellaneous Case No. 2052 of 2000 on 5-6-2000 has not been denied by the respondent. Successive bail applications are indeed permissible under the changed circumstances. But without the change in the circumstances, the second application would be deemed to be seeking a review of the earlier judgment, which is not permissible under criminal law, as has been held by this Court in ***Hari Singh Mann v. Harbhajan Singh Bajwa [(2001) 1 SCC 169: 2001 SCC (Cri) 113]*** and various other judgments.

15. Therefore, the Court cannot conclude in the present proceedings that the petitioner was not found in possession of 62 grams of heroin.

16. The status report mentions that the police have cited 12 witnesses, out of whom only 6 witnesses have been examined. Learned Trial Court had summoned the witnesses at Serial No. 2 and 10 for 26.08.2026, and the witnesses cited at Serial No. 1 for 27.08.2026. The learned Trial Court had held on 01.01.2026 that the trial was not being listed on a day-to-day basis to adjust and rotate the large number of old cases of under-trial prisoners

pending before the Court. This is a blatant violation of the Judgment of the Hon'ble Supreme Court of India in ***Central Bureau of Investigation Vs. Meer Usman alias Sara alias Meer Usman Ali Special Leaver to Appeal (Crl.) No. 969 of 2025, decided on 22.09.2025***, which was circulated by the Registry of this Court to the Judicial officers. This order sheet shows that the Court is not interested in concluding the trial expeditiously despite the mandate of the Hon'ble Supreme Court of India. 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 the 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.

17. 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)]***.

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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?"
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> **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."

18. It was held in the ***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."

19. 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])."

20. 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)
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> > *"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."

21. 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.
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> **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)
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> > "*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."

22. 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)

> "5. ... Now obviously, the procedure prescribed by law for depriving a person of liberty cannot be "reasonable, fair or just" unless that procedure ensures a speedy trial for the 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."

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."

23. 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;
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> 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."

24. 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 constitutional courts, not to be merely governed by the statutory provisions.

25. 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:

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> **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.

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

27. 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."

28. In view of the above, the present petition is allowed, and the petitioner is ordered to be released on bail in the sum of

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₹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.

29. 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.

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30. The petition stands accordingly disposed of. A copy of this order be sent to the Jail Superintendent concerned and the learned Trial Court by FASTER.

31. The observations made here-in-above are regarding the disposal of this petition and will have no bearing whatsoever on the merits of the case.

32. It is earnestly hoped that this failure by the learned Presiding Officer to comply with the directions of the Hon'ble Supreme Court of India is an isolated aberration. It is expected that such non-compliance will not recur, lest the Court be compelled to take appropriate action for violating mandatory judicial directives.

(Rakesh Kainthla)
Judge

7th July, 2026
(Chander)

CHANDER SHEKHAR
Digitally signed by CHANDER SHEKHAR
Date: 2026.07.07 13:23:21 +0530