



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

237

**CRM-M-1839-2025
Decided on : 03.12.2025**

Akashdeep Singh @ Akash@ Baba

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present : Mr. Manjinder Singh Saini, Advocate
for the petitioner.

Mr. Amritpal Singh Gill, DAG, Punjab
for the respondent-State.

RUPINDERJIT CHAHAL, J (ORAL)

1. Prayer in the instant petition filed under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is for grant of regular bail to the petitioner in case FIR No.407 dated 19.10.2023, registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station City Hoshiarpur, District Hoshiarpur.

2. Brief facts of the present case as per the prosecution are that on 19.10.2023, ASI Amarjit Singh along with his fellow police officials was on patrolling duty and on suspicion, they apprehended co-accused Manjit Khan @ Mani who was found in conscious possession of 265 grams of intoxicant powder. Initially, the FIR was registered against the said co-accused.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and he has no concern with the said



offence. He argued that neither the petitioner was present at the spot nor was named in the FIR. It has also been contended that the petitioner was nominated as an accused only on the basis of disclosure statement made by co-accused Manjit Khan alias Mani. Apart from the disclosure statement, there is no other evidence to connect the petitioner with the offence in question and it is a trite law that disclosure statement of co-accused during his custodial interrogation is not admissible. No recovery is to be effected from the petitioner. The petitioner is in custody since 09.11.2023. The investigation in the case is complete, challan stands presented; charges have been framed and out of 12 prosecution witnesses, only 06 have been examined till date. He further submits that trial will take a long time to conclude and no useful purpose would be served by keeping him behind bars. Therefore, it is urged that the petition deserves to be allowed.

4. Learned State counsel has filed the custody certificate of the petitioner and the status report, which are taken on record. He has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature. He has submitted that the recovery of alleged contraband effected from the co-accused in the present case falls under the commercial quantity. He has further submitted that the petitioner is also involved in multiple other cases meaning thereby he is an habitual offender.

5. A query was raised by this Court to learned State counsel as to whether apart from the disclosure statement, any material has been found during investigation to connect the petitioner with the recovered contraband, to which he answered that there is nothing else to connect the petitioner with the offence.

6. As far as the argument of learned counsel for the petitioner



regarding nomination of accused on the basis of disclosure statement is concerned, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court titled as '**Tofan Singh vs. State of Tamil Nadu, AIR 2020 Supreme Court 5592**', relevant whereof reads as under:

"155. We answer the reference by stating: (i) That the officers who are invested with powers under section 53 of the NDPS Act are "police officers within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act (ii) That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS ACT".

7. More recently, the Hon'ble Supreme Court in a judgment titled as '**Smt. Najmunisha, Abdul Hamid Chandmiya @ Ladoo Bapu Vs. State of Gujrat, Narcotics Control Bureau' 2024 INSC 290**', has reiterated the ratio decidendi of the judgment of Hon'ble Supreme Court in the case of Tofan Singh (supra).

8. The Hon'ble Supreme Court while dealing with a plea for grant of anticipatory bail in a case under NDPS Act, 1985; in a judgment titled as '**Vijay Singh vs. The State of Haryana, bearing Special Leave to Appeal (Crl.) No. (s)1266/2023 decided on 17.05.2023**' has held as under:

"The petitioner is alleged to have committed offences under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter called the NDPS Act". His application for anticipatory bail was rejected by the High Court. The allegations in the FIR are that 1.7 Kg of Poppy Straw (Doda Post) was recovered from the co-accused. The petitioner concededly was not present at the spot but was named by the co-



accused. That apart there is no other material to implicate the petitioner. The prosecution urges that another case with allegations of commission of offence under the NDPS Act are pending against the petitioner. It is not denied that in those proceedings he was granted bail. Having regard to these circumstances, the petitioner is directed to the enlarged on anticipatory bail, subject to such terms and conditions as the trial Court may impose. The petition is allowed. All pending applications are disposed of."

9. The petitioner is sought to be arrayed solely on the basis of disclosure statement of co-accused. Suffice to say there is no other material available to connect the petitioner with the recovered contraband. The veracity of the disclosure statement made by the co-accused will be subject to comprehensive scrutiny during the course of the trial and same cannot be a ground to decline the concession of regular bail to the petitioner.

10. Having heard learned counsel for the parties at length and after perusing the record of the case, it is evident that the petitioner is in custody for the last 01 year 07 months and 12 days; out of 12 prosecution witnesses, only 06 have been examined, as such, the trial may take a long time to conclude and no useful purpose would be served by detaining the petitioner in further custody. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future would be violative of his rights under Article 21 of the Constitution of India.

11. Reliance is placed upon a judgment in the case of ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, wherein Hon'ble Apex Court has held that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of his right to



life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle “*bail is a rule*” and “*jail is an exception*”.

12. A two-Judge Bench of the Hon’ble Supreme Court, in *Nandlal Mondal @ Abhay Mondal v. State of West Bengal, SLP (Crl.) No.12788/2023*, granted bail to the accused after 18 months of incarceration on the ground of delay in trial in an NDPS matter involving commercial quantity of contraband. Similar relief has been granted by the Hon’ble Supreme Court in a series of judgments, namely: *Md. Aliul Islam @ Aliul Islam @ Alius v. State of West Bengal, SLP (Crl.) No. 736/2024*; *Debrata Mondal v. State of West Bengal, SLP (Crl.) No.14970/2023*; *Santarul Islam @ Santa v. State of West Bengal, SLP (Crl.) No.13169/2023*; *Indrajit Mondal @ Piglu v. State of West Bengal, SLP (Crl.) No.8512/2023*; *Narjul Islam @ Najbul Hoque v. State of West Bengal, SLP (Crl.) No.14172/2023*; *Subhashri Das @ Rana @ Subhoshree v. State of West Bengal, SLP (Crl.) No.15284/2023*; *Mithun Sk. & Anr. v. State of West Bengal, SLP (Crl.) No.16598/2023*; *Sk. Nasiruddin @ Nasirddin Sk. v. State of West Bengal, SLP (Crl.) No.3402/2024*; *Indadul Shah v. State of West Bengal, SLP (Crl.) No.12670/2023*; *Hanef Kharsani @ Hanef Sheikh v. Union of India; Ripon Seikh & Ors. v. State of West Bengal, SLP (Crl.) No.16663/2023*; *Moidul Sarkar v. State of West Bengal, SLP (Crl.) No.15668/2023*; *Saniya Bibi @ Soniya Bibi v. State of West Bengal, SLP (Crl.) No.2354/2024*; *Saddam Hossain v. State of West Bengal, SLP (Crl.) No.15496/2023*; *Bijon Sk. @ Golam Murselim v. State of West Bengal, SLP (Crl.) No.6046/2024*; and *Subhas v. State of West Bengal, SLP (Crl.) No.8823/2019*.

13. Moreover, prolonged detention of the petitioner, without any



likelihood of the trial being concluded in the near future, would amount to a violation of their fundamental rights guaranteed under Article 21 of the Constitution of India. The Hon'ble Supreme Court, in ***Mohd. Muslim @ Hussain v. State (NCT of Delhi)***, 2023 AIR SC 1648, while dealing with an NDPS case, held that the principles of fairness embodied under Article 21 override the statutory restrictions on grant of bail under Section 37 of the NDPS Act. Speaking through Justice S. Ravindra Bhat, the Court observed:

"20. The standard to be considered therefore, is one, where the court would look at the material in a broad manner, and reasonably see whether the accused's guilt may be proved. The judgments of this court have, therefore, emphasized that the satisfaction which courts are expected to record, i.e., that the accused may not be guilty, is only prima facie, based on a reasonable reading, which does not call for meticulous examination of the materials collected during investigation (as held in Union of India v. Rattan Malik). Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436A which is applicable to offences under the NDPS Act too (ref. Satender Kumar Antil supra). Having regard to these factors the court is of the opinion that in the facts of this case, the appellant deserves to be enlarged on bail.

21. Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable. Jails are overcrowded and their living conditions, more often than not, appalling."

14. As regards the submission of learned State counsel that petitioner is involved in other/one more criminal case(s), reference is placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another***, 2012 (2) SCC 382 in which, it is held that the facts and circumstances



of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other/another case(s). The relevant portion of the said judgment is reproduced herein-below:-

"As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

15. In view of the above, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned. It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

03.12.2025

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**(RUPINDERJIT CHAHAL)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No