



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

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**CRM-M-4229-2025 (O&M)
Decided on : 04.02.2025**

BHAJAN LAL ALIAS RAJU DJ

... Petitioner(s)

Versus

STATE OF HARYANA

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Ms. Tejasvi, Advocate for the
petitioner(s).

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.407 dated 09.09.2020 under Sections 22(c) and 29 of NDPS Act, 1985, registered at Police Station Rania, District Sirsa.

2. The translated version of the FIR is reproduced below:-

“To, Officer-in-charge Police Station Rania Jai Hind. Today on dated 09.09.2020 ASI, HC Beant Singh No.749 HC Juglal No. 495 Constable Uttam Singh No. 3/238 CIA Unit Kalawali were carrying private laptop and printer in official vehicle No. HR 24 Z-2525 driven by Constable Ankit No. 1468 for patrolling and going towards Ottu through unmetalled road in the area of Ottu Head. And when we reached near old fish pond then two young men were seen coming from the unmetalled road towards Ottu Head. The rider of the motorcycle appeared perturbed on seeing the police party and when he tried to turn the motorcycle then motorcycle slipped down and rider of the motorcycle and young pillion rider fell down alongwith the motorcycle. And plastic bag kept between them also fell down and some intoxicant capsules came out of it. That ASI alongwith the help of fellow officials controlled the two young men alongwith the motorcycle and enquired about their name and address then rider disclosed his name as Sukhwinder Singh @ Sukha son of Om Parkash resident of Bhamboor and pillion rider disclosed his name as Bhajan Lal @ Raju DJ son of Mukhtyar Singh resident of Ottu. And motorcycle No. HR 44 J- 3766 manufacture Hero HF Deluxe black colour was found. When ASI picked up and checked the plastic bag and intoxicant capsules which fell from the plastic bag then 56 strips of intoxicant capsules was recovered from the plastic bag. On checking, 38 strips of PARVORIN-SPAS (RIDLEY) Tramadol-Hydrochloride - Diclofenac -Sodium -Dicyclomin -Hydrochloride & Chlorpheniramine Maleate Capsules and B.N. PAR-1945, MFG-DEC-2019, EXP-NOV-2021 and 18 strips of PARVORIN-SPAS (RIDLEY) Tramadol-Hydrochloride -Diclofenac -Sodium -Dicyclomin Hydrochloride & Chlorpheniramine Maleate Capsules B.N. PAR-2019, MFG-AUG-2020, EXP-JUL-2022. Each strip containing 10 intoxicant capsules which is 560 intoxicant capsules (RIDLEY). That recovered intoxicant capsules fall under NDPS Act as per S.No.-238 ZH. ASI put the recovered strips in



the same plastic bag to prepare parcel and sealed with my seal ML/3 and prepared sample seal. ASI Madan Lal prepared Seizure Memo for seizing and took into custody the plastic bag containing intoxicant capsules sealed with seal of ML/3 and motorcycle No. HR 44 J-3766 manufacture Hero HF Deluxe black coloured which is signed by Sukhwinder Singh @ Sukha son of Om Parkash Majhbi Sikh resident of Bhamboor and Bhajan Lal @ Raju DJ son of Mukhtyar Singh Baajigar resident of Ottu and witnesses. That ASI gave his seal to HC Beant Singh No. 749 CIA Unit Kalawali after use. Upon enquiry by ASI, Sukhwinder Singh @ Sukha son of Om Parkash Majhbi Sikh resident of Bhamboor and Bhajan Lal @ Raju DJ son of Mukhtyar Singh Baajigar resident of Ottu told that they share the intoxicant capsules. And we had jointly purchased the intoxicant capsules from Ladi son of Deewan Singh Rai Sikh resident of Village Kuttabadh. That Sukhwinder Singh @ Sukha son of Om Parkash Majhbi Sikh resident of Bhamboor and Bhajan Lal @ Raju DJ son of Mukhtyar Singh Baajigar resident of Ottu have by keeping 560 intoxicant capsules (RIDLEY) and Ladi son of Deewan Singh Rai Sikh resident of Village Kuttabadh by selling have committed offences under Sections 22/61/85 NDPS Act. So case be got registered by sending the information reduced in writing through Constable Uttam Wingh No.3/238 CIA UNIT kalawali and other investigating officer be sent for investigation on the spot.”

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, wherein 560 capsules of tramadol hydrochloride were allegedly recovered from the petitioner and co-accused. She also submits that the similarly situated co-accused has already been granted regular bail by this Court vide order dated 19.12.2024 passed in CRM-M-60432-2024 (Annexure P-2). The petitioner has undergone an actual custody of 01 year, 01 month and 24 days and there is no other case registered against him.

4. Per contra, learned State counsel opposes the submissions made by the learned counsel for the petitioner on the ground that the alleged contraband was recovered from the conscious possession of the petitioner and falls within the ambit of commercial quantity and as such in view of the embargo created by Section 37 of the NDPS Act, the petitioner is not entitled to the concession of regular bail. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 01 year, 01 month and 24 days



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SI Rajbir Singh submits that the charges were framed on 30.03.2024 and out of total 15 prosecution witnesses, none has been examined yet.

5. Heard the rival submissions made by learned counsel for the parties.

6. The Hon'ble Supreme Court in order dated 22.08.2022 passed by the Supreme Court in **Special Leave to Appeal (Crl.) No.5530-2022** titled as "**Mohammad Salman Hanif Shaikh Vs. The State of Gujarat**", had held as under:-

"We are inclined to release the petitioner on bail only on the ground that he has spent about two years in custody and conclusion of trial will take some time.

Consequently, without expressing any views on the merits of the case and taking into consideration the custody period of the petitioner, this special leave petition is accepted and the petitioner is ordered to be released on bail subject to his furnishing the bail bonds to the satisfaction of the Special Judge/ concerned Trial Court.

The special leave petition is, accordingly, disposed of in the above terms.

Pending application(s), if any, shall also stand disposed of."

7. In **Hasanujjaman & others Versus The State of West Bengal, SLP (Crl.) No.(s).3221/2023, decided on 04.05.2023**, held as under:-

"1. There are three petitioners in this Special Leave Petition, who were accused of committing an offence under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act') in FIR No.18/2022, dated 09.01.2022, registered at Police Station Islampur, District Murshidabad, West Bengal.

2. The allegations are that when the police party



intercepted the petitioners along with another person riding on two motorcycles, they were found in possession of codeine phosphate in a consignment of phensedyl bottles loaded in two nylon bags. During the search, 115 bottles (100 ml. Each) of phensedyl were recovered from the joint possession of the petitioners. They were arrested on the spot and have been in custody for more than one year and four months.

3. We have heard learned counsel for the parties and carefully perused the record.

4. The investigation is complete; chargesheet has been filed, though the charges are yet to be framed. The conclusion of trial will, thus, take some reasonable time, regardless of the direction issued by the High Court to conclude the same within one year from the date of framing of charges. The petitioners do not have any criminal antecedents. There is, thus, substantial compliance of Section 37 of the NDPS Act.

5. In such circumstances, but without expressing any views on the merits of the case, we deem it appropriate to release the petitioners on bail subject to the terms and conditions as may be imposed by the Trial Court.

6. Additionally, it is clarified that in case the petitioners are found involved in any other case under the NDPS Act or other penal law, it shall amount to misuse of the concession of bail granted to them today, and in such a case, necessary consequences shall follow.

7. The petitioners are further directed to appear before the Trial Court regularly. In the event of they being absent, it shall again be taken as a misuse of concession of bail.

8. The Special Leave Petition stands disposed of in the above terms.

9. As a result, pending interlocutory application also stands disposed of.

8. In order dated 05.08.2022 passed by the Supreme Court in **Criminal Appeal No.1169 of 2022** titled as "**Gopal Krishna Patra @ Gopalrusma Vs. Union of India**", the Supreme Court was pleased to observe as under: -

"Leave granted.



This appeal challenges the judgment and order dated 25.01.2022 passed by the High Court Of Madhya Pradesh, Principal Seat at Jabalpur, in MCRC No.117/2022. The appellant is in custody since 18.06.2020 in connection with crime registered as N.C.B. Crime No.02/2020 in respect of offences punishable under Sections 8, 20, 27-AA, 28 read with 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

The application seeking relief of bail having been rejected, the instant appeal has been filed.

We have heard Mr. Ashok Kumar Panda, learned Senior Advocate in support of the appeal and Mr. Sanjay Jain, learned Additional Solicitor General for the respondent.

Considering the facts and circumstances on record and the length of custody undergone by the appellant, in our view the case for bail is made out.

We therefore, direct that:

(a) The appellant shall be produced before the Trial Court within five days from today.

(b) The Trial Court shall release the appellant on bail subject to such conditions as the Trial Court may deem appropriate to impose.

(c) The appellant shall not in any manner misuse his liberty.

(d) Any infraction shall entail in withdrawal of the benefit granted by this Order.

The appeal is allowed in aforesaid terms."

9. In order dated 01.08.2022 passed by the Supreme Court in Special Leave to Appeal (Crl.) No.5769/2022 titled as "**Nitish Adhikary @ Bapan Vs. The State of West Bengal**" Supreme Court has observed as under:-

"As per the office report dated 29.07.2022, copy of the show cause notice along with Special Leave Petition was supplied to the Standing Counsel for the State of West Bengal and separate notice has been served on the State also. However, no one has entered appearance on their behalf.

The petitioner seeks enlargement on bail in F.I.R. No. 612 of 2020 dated 17.10.2020 filed under Section 21(c) and 37 of the NDPS Act, registered at Police Station Bongaon, West Bengal.



During the course of the hearing, we are informed that the petitioner has undergone custody for a period of 01 year and 07 months as on 09.06.2022. The trial is at a preliminary stage, as only one witness has been examined. The petitioner does not have any criminal antecedents.

Taking into consideration the period of sentence undergone by the petitioner and all the attending circumstances but without expressing any views in the merits of the case, we are inclined to grant bail to the petitioner.

The petitioner is accordingly, directed to be released on bail subject to him furnishing bail bonds to the satisfaction of the Trial Court.

The Special Leave Petition is disposed of on the aforestated terms. Pending application(s), if any, shall stand disposed of."

10. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner has undergone an actual custody of 01 year, 01 month and 24 days and there is no other case registered against him. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress. Similarly situated co-accused has already been granted regular bail vide order dated 19.12.2024 passed in CRM-M-60432-2024 (Annexure P-2). The trial in the present case will not conclude anytime soon, in the aforementioned factual scenario, the rigours of Section 37 of NDPS Act will be diluted. Culpability, if any, would be determined at the time of trial. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violate of his rights under Article 21 of the Constitution of India including the right to speedy trial, and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgment of Apex Court in "**Dataram Singh vs. State of Uttar Pradesh and another**", (2018) 3 SCC 22.



11. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in “Abdul Rehman Antulay and others v. R.S. Nayak and another”, 1992(2) RCR (Criminal) 634 observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

12. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (V) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

13. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

14. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would

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proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

04.02.2025

Kavita

Whether speaking/reasoned: *Yes/No**Whether Reportable:* *Yes/No*