



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
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CRM-M-7043-2024 (O&M)
Date of decision: 08.07.2025

Sarwan Singh @ Sonu @ Kaka
.....Petitioner
Versus
State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Karnail Singh Ahhi, Advocate and Mr. R.K. Saini, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 439 of Cr.P.C., is for grant of regular bail to the petitioner in FIR No.107 dated 17.07.2021 registered under Sections 22/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Verka, Amritsar, District Amritsar.
2. As per the prosecution case, on 17.07.2022, a police party headed by SI Surjit Singh, received a secret information that large quantity of illegal intoxicant capsules were being stored in a newly built house located in Gunpat Vihar Colony, Verka. Acting on this information, a police team, including the Drug Inspector, conducted the search of the house but did not find the person named Sonu, who was suspected to be involved in the alleged crime, however, inside the house, they discovered 90 boxes labeled "PARVODON SPAS," each containing 20 strips of 10 capsules, total 18,000 capsules containing



Tramadol. Thereafter, the said capsules were carefully sealed into two separate parcels and samples were sent to a forensic lab for its chemical analysis. During the investigation, it was found that while the house belonged to Ritesh Sharma, part of the land, including a plot near the house, was owned by Sarwan Singh @ Sonu. Further inquiry revealed that Sarwan Singh was running a business of selling these intoxicant tablets from the uninhabited house. As a result, Sarwan Singh was formally named as an accused in the case and later arrested in the FIR (supra).

3. Learned counsel for the petitioner, inter alia, contends that the petitioner has been falsely implicated in the FIR (supra). There is no evidence on record to establish the conscious and exclusive possession of the alleged contraband recovered from the petitioner. Admittedly, the alleged recovery was made from an uninhabited house, on the basis of a secret information. The petitioner was neither arrested at the spot nor anything has been recovered from his conscious possession. The house from which the alleged contraband was recovered was accessible to all and the petitioner is not the owner of the house, in question. Further, the petitioner has suffered the incarceration of 01 year, 09 months and 14 days.

4. Learned counsel for the petitioner further submits that there are total 26 prosecution witnesses cited in the list of witnesses, out of which, no PW has been examined till date and the trial is likely to take long time in conclusion.



5. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that huge quantity of contraband was recovered, which falls within the ambit of commercial quantity and the complicity of the petitioner has been duly established. The petitioner is a habitual offender involved in four more cases, registered under the NDPS Act and as such, the petitioner is not entitled to any relief, however, he could not controvert the fact that the petitioner is in custody since 23.09.2023.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 01 year 09 months and 14 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 26 prosecution witnesses, no PW has been examined so far.

7. A two Judge bench of the Hon'ble Supreme Court in ***Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal SLP (Crl.) No(s).12788/2023*** released the accused on bail after completion of 18 months of custody on account of protracted trial in NDPS case involving commercial quantity of contraband. Reliance in this regard can also be placed upon the judgments rendered by the Hon'ble Supreme Court passed in ***Md. Aliul Islam @ Aliul Islam @ Alius Vs. The State of West Bengal SLP (Crl.) No. 000736/2024, Debrata***



Mondal Vs. State of West Bengal SLP(Crl.) No. 14970-2023, Santarul Islam @ Santa Vs. The State of West Bengal SLP(Crl.) No. 13169/2023, Indrajit Mondal @ Piglu Vs. The State of West Bengal SLP(Crl.) No. 8512/2023, Narjul Islam @ Najbul Hoque Vs. The State of West Bengal SLP(Crl.) No. 14172/2023, Subhashri Das @ Rana @ Subhoshree Vs. The State of West Bengal SLP(Crl.) No.15284/2023, Mithun Sk. & Anr. Vs. The State of West Bengal SLP (Crl.) No.016598/2023, SK. Nasiruddin @ Nasirddin SK. Vs. State of West Bengal SLP (Crl.) No.003402/2024, Indadul Shah Vs. The State of West Bengal SLP(Crl.) No. 12670/2023 , Hanef Kharsani @ Hanef Sheikh Vs. Union of India, Ripon Seikh & Ors. Vs. State of West Bengal SLP(Crl.) No. 16663/2023, Moidul Sarkar Vs. The State of West Bengal SLP(Crl.) No. 15668/ 2023, Saniya Bibi @ Soniya Bibi Vs. The State of West Bengal SLP(Crl.) No. 2354/2024, Saddam Hossain Vs. State of West Bengal SLP(Crl.) No. 15496/2023, Bijon SK @ Golam Murselim Vs. The State of West Bengal SLP (Crl.) No. 6046/2024 and Subhas Vs. The State of West Bengal SLP(Crl.) No. 8823/2019.

8. Further, the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. Keeping the petitioners in further detention without the prospect of the trial being concluded in the near future, would be violative of their rights under Article 21 of the Constitution of India. A two Judge bench of the Hon'ble Supreme Court



in *Mohd. Muslim @ Hussain vs. State (NCT of Delhi) 2023 AIR SC 1648*, has held that the concept of fairness enshrined under Article 21 of the Constitution of India would trump the bar on granting bail in cases involving commercial quantity of contraband, as stipulated by Section 37 of the NDPS Act. Speaking through Justice S. Ravindra Bhat, has opined as follows:

“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.” (emphasis added)

9. A two Judge Bench of Hon’ble Supreme Court in *“Satender Kumar Antil vs. CBI”, (2022) 10 SCC 51*, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners,



majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

10. Further keeping in view the law laid down by the Hon’ble Supreme Court of India in **“Prabhakar Tewari vs. State of U.P. and another”** 2020 (1) R.C.R. (Criminal 831) and **“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”**, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

11. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Sarwan Singh @ Sonu @ Kaka is ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

12. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The



learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

08.07.2025
yakub

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