



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

273-1

CRM-M-6830-2025

Date of decision: 11.11.2025

Ajeet Kumar Yadav

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Deepak Grover, Advocate for the petitioner.

Mr. Vishal Singh, AAG, Haryana.

AARADHNA SAWHNEY, J.(ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No. 116 dated 01.05.2023 registered against him, for commission of offences punishable under Section 20 (b) (ii) (c) of Narcotic Drugs and Psychotropic Substances, Act 1985 (Section 29 of NDPS Act and Section 201 IPC added later on) at Police Station Mundkati, District Palwal, has prayed for grant of bail.

2. In nutshell, the case that has been set up is that on 30.04.2023 a police party headed by ASI Ashok Kumar was present at old Tumsera Toll at Mathura Delhi Road, while carrying a laptop, printer, electronic weighing machine etc., when they received a secret information that one Rajinder would be hiding 'Ganja Patti' in the goods loaded in Canter bearing No.HR 55X 9426 (Eicher Canter) and would be crossing the area around 06:30 P.M. Relying on the information raiding party was prepared. Senior Police officers were intimated. When the raiding team saw an Eicher Canter coming from Hodal side, the driver was signalled to stop, who introduced himself as Rajinder son of Saamal, resident of Bajota, P.S. Tappal, District Aligarh. Requisite statutory formalities were complied with. Several plastic



bags (in all 28) were found hidden inside the plyboards stacked in the rear body of the Canter. 480 Kg of Ganja Patti is said to have been recovered from those 28 bags. After the FIR was lodged, aforementioned Rajinder was interrogated who disclosed the names of the other accused namely Sunder, Tinku Sharma @ Pandit, Birre @ Birham and Kalu @ Ram Charan as his accomplice.

On 04.05.2023, co-accused Sundar son of Samal, co-accused Kalu @ Ram Charan, resident of Barsana UP were arrested.

It is in the disclosure statement of co-accused Kalu @ Ram Charan, that name of the present petitioner namely Ajit Yadav and others involved in the offence cropped up. Record with regard to the ownership of the Eicher Canter was obtained which revealed that the vehicle is registered in the name of one Sunder Saini son of Bihari. On 28.07.2023, co-accused Tinku Sharma was taken on production warrants from Odisha where he was confined in another criminal case and was joined in the investigation. He also confessed to his involvement and got recovered Samsung Mobile phone used by him in the commission of offence.

On 30.09.2023, co-accused Brahm Singh @ Birre was arrested. Mobile phone handsets recovered from the possession of the accused, who were arrested, were taken into possession.

As per co-accused Ram Charan, it was at the instance of present petitioner that the contraband was being transported from Odisha to Rajasthan. Petitioner was arrested on 15.03.2024, who during interrogation confessed to his involvement in the commission of offence and offered to get recovered the mobile phone with which he used to contact the other accused on Whatsapp.



On 17.03.2024 co-accused Anand Mishra, who had allegedly supplied the contraband to co-accused Ram Charan, Tinku Sharma etc, was arrested.

CAF, CDR etc. of the mobile phones, recovered at the instance of all the accused who were arrested, alongwith certificate under Section 65 B of Indian Evidence Act were also collected and sent to DITAC Gurugram for examination. The report is still awaited.

On culmination of investigation challan was filed against petitioner and co-accused Rajender, Sundar, Tinku Sharma, Ramcharan and Braham Singh on 15.12.2023. Thereafter, second challan was filed on 06.09.2024.

Bail application of the present petitioner was dismissed by the learned Additional Sessions Judge Palwal in terms of order dated 09.05.2024. Aggrieved of the same, present petition has been filed.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated, he was never found at the spot, nor any recovery was effected from him. He (petitioner) was nominated as an accused on the basis of string of disclosure statements made by the other accused. These disclosure statements are not admissible in evidence, being confessional in nature made before the police authorities, in view of Section 25 of the Indian Evidence Act. Further the falsity of the case set up by the prosecution is apparent from the fact that despite the alleged recovery of contraband was effected from busy public place, however for reasons best known no efforts were made to join any independent person as a 'witness' to the case proceedings. Learned counsel also referred to the judgment dated 13.11.2024 of the Coordinate Bench in CRM-M-41805-2024 vide which the



present petitioner was granted the concession of bail in a similar case of the like nature.

It is further the submission of learned counsel for the petitioner that likelihood of completion of trial in the near future is quite remote, thus, further incarceration of petitioner in custody, would not serve any useful purpose and would also be violative of the fundamental rights guaranteed under Article 21 of the Constitution of India. Prayer for allowing the petition has been made.

4. Opposing the petition, learned State Counsel submits that petitioner has been specifically named by the other accused, as the person at whose instance the contraband was being transported from Odessa to Rajasthan. Even otherwise he has questionable past antecedents, being involved in six cases of the like nature (the details of which are mentioned in para No.20 of the Status report filed by way of affidavit of Shri Kuldeep Singh, Deputy Superintendent of Police, Hodal, District Palwal). In view of the quantity of the contraband recovered from the co-accused arrested at the site, as per learned State counsel the rigors of Section 37 of NDPS Act are attracted which bar the grant of bail, unless the twin conditions prescribed in the provision are satisfied. As per the case of prosecution, petitioner being the focal point and also having remained involved in similar cases, it cannot be presumed that he is not involved in the offence or that he is not likely to commit the offence again, if extended the concession of bail. Dismissal of the petition has been prayed for.

5. I have heard the learned counsel for the parties and have gone through the documents on record.

6. Admittedly, the petitioner was not arrested at the site, neither



any recovery was effected from him. Name of the petitioner cropped up in the disclosure statement of the co-accused, the admissibility and reliability of the said statement is a question which would be decided during the course of trial based on the evidence adduced on the case file. It has been noticed that the petitioner is involved in other cases, but nothing has come on record from where it can be inferred that he stands convicted in any one of those cases. Further, the Status report reveals that the challan against the present petitioner and co-accused Anand Mishra was submitted on 06.09.2024. Out of total 31 prosecution witnesses none has been examined, thus, the completion of trial in the near future is quite remote.

At this stage it would also be appropriate to refer to judgment of Hon'ble Supreme Court wherein case titled as ***Shambu Lal Gurjar Vs. State of Rajasthan, SLP Criminal 16671 of 2024***, decided on 23.04.2024, it was held as under:-

“The allegations against the petitioner is that there is a recovery of 60 kgs poppy husk/straw (contraband article) from him and prior to this incident, he has three criminal antecedents relating to the NDPS Act registered in the year 2019, 2021 and 2022. The third bail application of the petitioner was dismissed by the High Court. He has already undergone about 1 year and 8 months in jail.

Heard learned counsel for the petitioner and the respondent State.

Considering the fact that the contraband article is a poppy straw although he has three criminal antecedents but since he has been in jail for the last 1 year and 8 months, we are of the opinion that a case of bail is made out for the petitioner.”

Further in **Chitta Bishwas @ Shubash Vs. State of West Bengal**



Law Finder Doc Id# 1938935, considering the duration of custody and progress in trial, Hon'ble Supreme Court granted bail to an accused/appellant who was found in possession of 46 bottles of PHENSYDRYL Cough Syrup containing codeine mixture above commercial quantity.

In ***Md Aliul Islam @ Aliul Islam @ Aliul Vs. State of West Bengal Law Finder Doc Id# 2734487***, Hon'ble Supreme Court granted bail to an accused, involved in a case under Section 21(c)/27A of NDPS, considering custody period and similarity with other accused, whose bail had been allowed.

Similarly on the ground of prolonged custody and parity with co-accused, petitioner who was allegedly caught keeping in his possession 290 bottles of PHENSYDRYL Cough Syrup (Commercial quantity) in ***Devrata Mondal Vs. State of West Bengal Law Doc Finder Id # 2734476***, was granted the concession of bail by the Hon'ble Supreme Court. In ***Santarul Islam Vs. State of West Bengal, Law Finder Doc Id# 2735329***, Hon'ble Supreme Court granted bail to the petitioner who was also caught keeping in his illegal possession of PHENSYDRYL Cough Syrup (on the ground of prolonged custody and nature of contraband).

When appreciated in the light of the facts that have been brought on record, the Court is of the opinion that no useful purpose would be served by further detention of the petitioner, as the same, without the prospect of trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial and would, thus, also be against the principle of "*Bail is a general rule and incarceration is an exception*" as held by Hon'ble Supreme Court in



Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131.

It is thus clear that criminal antecedents are also not legal grounds to deny the rigors of Section 37 of NDPS Act this stage. Considering that out of 31 prosecution witnesses none has been examined till date, thus the completion of trial is likely to take time, the fact that the name of the petitioner cropped in the disclosure statement of the accused, as also giving due weightage to the nature of contraband recovered i.e. *Ganja*, the fact that the other accused namely Ram Charan @ Kalu (on whose disclosure statement the name of the present petitioner cropped up), as also co-accused Sundar and Rajinder both sons of Samal, residents of Bajota have been granted the concession of bail, present petitioner, who has been in custody since March 2024 is also granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

- (i) The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) The petitioner will not tamper with the evidence during the trial.*
- (iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*



(vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.

(vii) The petitioner shall not in any manner misuse his liberty.

(viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.

(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

7. Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)
JUDGE

11.11.2025
Hemant

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