



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

CRM-M-7478-2024
Date of decision: 01.08.2025

JASVIR SINGH @ NIKKA

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. J.S. Sandhu, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the first petition filed under Section 439 Cr.P.C. (*now Section 483 BNSS*) seeking regular bail in case bearing FIR No.150 dated 30.09.2023 under Sections 15(C) and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act") registered at Police Station Sarhali, District Tarn Taran (Annexure P-1).

2. Brief facts of the present case are that on 30.09.2023, the police intercepted two cars, make, Honda City, having white and golden colour. The white colour car was driven by co-accused, namely, Parminder Singh Baggi and he was accompanied by another co-accused Ajay Kumar. Similarly, the golden colour car was driven by accused Kuldeep Singh @ Gaggu and he was accompanied by co-accused Sona Singh. As per option given by these accused, both the cars were searched in the presence of a gazetted officer and the police recovered 7 plastic bags having 20 kg poppy husk each from the dickey of white colour car, driven by accused Parminder Singh @ Baggi.



Similarly, the search of another golden colour car led to recovery of 6 plastic bags containing 20 kg poppy husk each and one bag containing 10 kg poppy husk. Hence, the FIR (*supra*) was registered.

3. In compliance of the order passed by this Court on 22.04.2025, status report dated 29.07.2025 by way of affidavit of Manoj Kumar, PPS, Deputy Superintendent of Police, Sub Division Jaitu, District Faridkot has been filed on behalf of respondent-State. The same is taken on record. A copy thereof has been supplied to learned counsel for the petitioner.

4. Learned counsel for the petitioner seriously objects to the contents of the status report and submits that the petitioner is facing trial in one more case only and in all other cases, mentioned in the status report, the petitioner has already undergone the entire sentence or has been acquitted. The same finds mention in the impugned order passed by learned Special Judge, Faridkot (Annexure P-2). Learned counsel submits that the case of the petitioner is now squarely covered by the judgment of Hon'ble Supreme Court in ***Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal SLP (Crl.) No(s).12788/2023*** as till date, out of 24 witnesses cited by the prosecution, not even a single witness has been examined.

5. Learned counsel for the petitioner *inter alia* contends that the petitioner has undergone a custody period of more than 01 year and 09 months. He further contends that nothing has been recovered from the conscious possession of the petitioner. Furthermore, the petitioner has been nominated as accused in the FIR (*supra*), only on the basis of disclosure statement made by co-accused, during his custodial interrogation, which has no evidentiary value in the eyes of law and the same is hit by Sections 25 and



26 of the Evidence Act. Lastly, learned counsel submits that till date, not even a single witness has been examined by the prosecution, out of total 24 witnesses.

6. *Per contra*, learned State counsel opposes the prayer made by the petitioner on the ground that there is sufficient material available on record to prove complicity of the petitioner. Further, the petitioner is involved in other cases also.

7. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner remained behind the bars for the last more than 01 year and 09 months. The final report under Section 173 Cr.P.C. was presented before the concerned Court and subsequently, charges were framed. The trial of the case has not made much progress as out of out of 24 witnesses cited by the prosecution, not even a single witness has been examined so far. The petitioner has already undergone a period of 01 year, 09 months of custody and the delay in conclusion of trial cannot be attributed him.

8. 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.

9. 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 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.

10. 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:

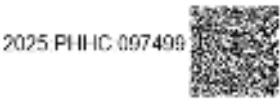
“20. The standard to be considered therefore, is one, where the court would look at the material in a broad manner, and reasonably see whether the accused’s guilt may be proved. The judgments of this court have, therefore, emphasized that the satisfaction which courts are expected to record, i.e., that 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)

11. 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.

12. In view the discussion above, the present petition is allowed.

Accordingly, without commenting upon the merits of the case, the petitioner-



Jasvir Singh @ Nikka is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

13. 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.

August 01, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |