



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

223

CRM-M-7836-2025

Date of decision: 03.11.2025

Karan Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Abhaysher Singh, Advocate for the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J.(ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No. 50 dated 22.04.2023 registered against him, for commission of offences punishable under Sections 22/29 of Narcotic Drugs and Psychotropic Substances, Act 1985 (Section 25 of NDPS Act added later on) at Police Station Khuian Sarwar, District Fazilka, has prayed for grant of bail.

2. In brief, the case set up against petitioner is that one Sukhchain Singh and Lovepreet Singh were caught red handed while keeping in their illegal possession 88000 intoxicant tablets (Commercial Quantity). Documents on record further reveal that the aforesaid 2 persons were arrested, when a nakka was laid on the basis of secret information received by police team headed by ASI Rattan Lal. After the statutory formalities were complied with, FIR was lodged. During the course of interrogation, both the aforesaid accused, disclosed the name of present petitioner and one Sanjay (not yet arrested), who was stated to be a supplier. Thereafter, the present petitioner was arrested on 02.08.2023.

On culmination of investigation, challan was prepared and filed in the Court on 17.10.2023.

3. Petitioner/accused who was arrested on 02.08.2023 moved an



application for grant of bail before the learned Additional Sessions Judge, Fazilka. The same was dismissed vide order dated 14.11.2023. The first bail application of the petitioner filed before this Court was dismissed as withdrawn, vide order dated 11.11.2024.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated, he was neither found at the spot, nor any recovery was effected from him. He (petitioner) was nominated as an accused only on the basis of disclosure statement made by the co-accused Sukhchain Singh and Lovepreet Singh. This disclosure statement is 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 but no efforts were made to join any independent person as a witness to the case proceedings. Learned counsel also referred to the judgment dated 06.09.2024 of the Coordinate Bench in CRM-M-42916-2024 vide which the present petitioner was granted the concession of bail in a similar case of the like nature.

Continuing further learned counsel submits that investigations in the present case were completed long ago. Challan was filed on 17.10.2023, but till date out of 21 witnesses, only 1 has been examined (4 have been given up), thus the possibility of completion of trial in the near future is quite remote. In view of the above submissions raised, it has been prayed that further incarceration of the petitioner in custody, would not serve any useful purpose and would also be violative of his fundamental rights guaranteed under Article 21 of the Constitution of India. It has thus been prayed to take lenient view in petitioner's favour, who has been in custody since 02.08.2023 by extending him the concession of bail. Prayer for



allowing the petition has been made.

5. Copy of status report dated 10.11.2024 by way of affidavit of Mr. Sukhwinder Singh Brar, PPS, Deputy Superintendent of Police, Sub-Division Abohar, District Fazilka has been placed on record. Learned State counsel has opposed the request for grant of bail on the ground that contraband recovered from the petitioner is 'Commercial Quantity'. In view of the quantity of the contraband recovered from the petitioner and 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. Even otherwise he has questionable past antecedents, being involved in one case of the like nature. Dismissal of the petition has been prayed for.

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

7. Before proceeding to discuss the rival contentions, it would 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 in **Devrata Mondal Vs. State of West Bengal Law Doc Finder Id # 2734476**, on the ground of prolonged custody and parity with other accused, co-accused Davrata, who was allegedly caught keeping in his possession 290 bottles of PHENSYDRYL Cough Syrup (Commercial quantity) 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).

It is, thus, clear that criminal antecedents by themselves, is not a legal ground to deny the rigors of Section 37 of the NDPS Act, particularly in cases where the accused-petitioners are in custody for a long period.

Reverting back to the facts of the case in hand, admittedly, the petitioner was not arrested at the site. Name of the petitioner cropped up in the disclosure



statements 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. Considering the fact that petitioner has been in custody since 02.08.2023, challan was filed way back on 17.10.2023, the likelihood of completion of trial is quite remote as out of 21 prosecution witnesses, only 01 has been examined till date, moreover there is nothing on record to indicate that petitioner is involved in any other case of like nature, this Court is, thus, of the opinion that in the facts and circumstances as mentioned above, further incarceration of petitioner in custody would not serve any purpose. Resultantly, in view of discussion made above, petitioner is 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.

8. 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

03.11.2025

Hemant

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