



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

**CRM-M-7711-2025
Date of decision: 17.02.2025**

AKASHDEEP

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Bhupinder Banga, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present second petition has been filed under Section 483 BNSS seeking regular bail to the petitioner, in case bearing FIR No.106 dated 28.07.2023 under Sections 21 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act") and Section 25(6) of Arms Act, 1959 registered at Police Station City Nawanshahar, District SBS Nagar (Annexure P-1), in his second attempt. The first petition was dismissed as withdrawn on 06.09.2024.

2. Tersely put, present case has been registered on the basis of secret information that Sandeep Kumar @ Ravi Balachauria son of Gurmail Singh, who is gangster and many cases of murder, extortion, NDPS Act and Arms Act are registered against him, at present, he is in jail but still he is getting Arms and Heroin supplied through Akashdeep @ Billa (petitioner herein) and Akashdeep Singh son of Sukhjinder Singh. It is further informed that even both these persons namely Akashdeep @ Billa (petitioner) and Akashdeep



Singh son of Sukhjinder Singh are coming on black colour scooter bearing No.PB-24-B-3951 from Garhshankar to Nawanshahr side, for supplying the Heroin and Arms. If *naka* be held at the disclosed place, then they could be apprehended along with Heroin and illegal weapons. On the basis of said information, present FIR was registered under Sections 21 & 29 of NDPS Act and 25(6) of Arms Act. Naka was held and during checking, both accused namely Akashdeep @ Billa (petitioner) and Akashdeep Singh son of Sukhjinder Singh were apprehended and on conducting the search, 01 kilo 200 grams of Heroin along with pistols, magazines and Rs.1,35,000/- drug money got recovered from them.

3. Learned counsel for the petitioner submits that this is the second attempt seeking grant of concession of regular bail. The earlier petition was dismissed as withdrawn on 06.09.2024. He further submits that the present petition has been filed on account of delay in conclusion of the trial. He contends that in spite of the fact that FIR (*supra*) was registered on 28.07.2023, out of total 25 witnesses cited by the prosecution, none has been examined so far. The petitioner has undergone a custody period of 01 year, 06 months and 12 days and is not involved in any other case.

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the prayer made by the petitioner on the ground that there is sufficient material placed on record to prove the complicity of the petitioner, however, he could not controvert the fact that the petitioner is not involved in any other case his custody period is 01 year, 06 months and 12 days and out of 25 prosecution witnesses, none has been examined till date.



5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 03.08.2023 and he is not involved in any other case. The final report under Section 173 Cr.P.C. was presented before the concerned Court and subsequently, charges were framed. Currently, the trial is at the stage of prosecution witness and out of 25 witnesses cited by the prosecution, none has been examined so far. The petitioner has already undergone a period of 01 year, 06 months and 12 days of custody and the delay in conclusion of trial cannot be attributed him.

6. 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.

7. 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.

8. 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. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner-Akashdeep 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.

10. 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.

February 17, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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