



CRM-M-9235-2025 (O&M)

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221 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-9235-2025 (O&M)
Date of Decision: 21.02.2025

VIKAS GUPTA @ BUNTY

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Bhavesh Aggarwal, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG Punjab and
Mr. Sandeep Kumar, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. This is the first petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioner in case bearing FIR No.306 dated 29.11.2022 registered under Sections 21, 29 of NDPS Act (Section 21(c) and 27 of NDPS Act added later on) at Police Station Special Task Force, District STF Wing Mohali.

2. The brief facts of the prosecution case are that on 29.11.2022, a special informer informed Inspector Harbans Singh separately that three persons namely, Vikas Gupta alias Bunty (petitioner herein) son of Baljinderpal Gupta, Gurpreet Singh alias Preet son of Late Karam Chand and Manjinder Singh alias Mani son of Harjit Singh have been indulging in the business of selling heroin in an illegal manner. Out of which against Vikas Gupta alias Bunty, earlier 3/4 cases have been registered of drug smuggling and against Gurpreet Singh alias Preet several cases of serious crimes have been registered. All of three are also addicted to heroin. On that day, the above three have gone to Hoshiarpur side for taking heroin in a vehicle Nishan Micra bearing No. PB-10-DM-6363 color



white. After some time, by taking heroin in a huge quantity, they have to go to Shimlapuri, Ludhiana. They can also go through this route or from Ladhowal Bypass to Ferozepur Road via Bypass Road. If now, by erecting the Nakabandi on the flyover bridge of Ladowal Bypass to Ferozepur Road, checking be conducted all the three persons can be apprehended with huge quantity of heroin and vehicle Nishan Micra number as above. The information given by the special informant to Inspector Harbans Singh being reliable and authentic, with regard to information of the heroin, report u/s 42 NDPS Act was prepared separately and got aware AIG Special Task Force Ludhiana Range, through his mobile phone to their mobile phone through Whatsapp call. Petitioner along with co-accused by keeping the heroin in their possession and further supplying to their customers committed the offence under Sections 21, 29 NDPS Act and Inspector Harbans Singh by dictating the ruqa of above offence to Constable Tarlochan Singh against all the aforementioned persons by typing from Bhupinder Singh No.3461/PAP on his private laptop, by taking out the print out installed in Government vehicle Bolero with the help of Inverter and Printer, has been sent through Simratpal Singh Constable No.881/Khanna for registration of case at P.S. S.T.F. Phase-4, Mohali, District S.A.S. Nagar. Thereafter, further inquiry was conducted and the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that co-accused namely Manminder Singh Gill @ Manminder Singh @ Mani has been granted the concession of regular bail by this Court vide order dated 17.12.2024 passed in CRM-M-62205-2024 (Annexure P-1) and the petitioner is behind the bars since 29.11.2022. The prosecution has failed to conclude its evidence even after passing of more than 22 years, which has suffocated the



Constitution of India. Out of total cited prosecution witnesses, till date, only 02 witnesses have been examined. Delay in conclusion of trial cannot be attributable to the petitioner as he is in judicial custody. Learned counsel for the petitioner further submits that nothing has been recovered from the conscious possession of the petitioner and it would be a moot point to be determined by the learned trial Court as to whether it can be safely concluded that the petitioner was found in conscious possession of the contraband, which was recovered from the bag, lying under the co-driver's seat of the car, driven by the co-accused and petitioner is not owner of the car.

4. *Per contra*, learned State counsel opposes the grant of regular bail to the petitioner on the ground that a huge quantity of contraband of 3.340 kgs of heroin has been recovered from the conscious possession of the petitioner and his co-accused. As such, he is not entitled to any relief. Moreover, the petitioner is also involved in three more cases.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind the bars since 29.11.2022. The investigating agency has already concluded the investigation and has submitted the final report under Section 173 Cr.P.C. The trial of the case has not made much progress as out of total cited prosecution witnesses, only 02 have been examined so far. The culpability, if any, would be determined at the time of trial. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future. 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



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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*.

6. Further, the culpability, if any, would be determined at the time of final disposal of the case 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 conclusion of trial in the near future, would be violative of his 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*



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)*

7. In view of the ratio of law laid down by Hon’ble Supreme Court in **Prabhakar Tiwari Vs. State of UP and Anr.** 2020(1) RCR (Criminal) 831 and **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others** 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

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

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9. 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

21.02.2025*Ajay Goswami*

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>