



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

CRM-M-12782-2025
Date of decision: 23.05.2025

PARAMJIT SINGH ALIAS PAMMA

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sahil Puri, Advocate and
Mr. Vijay Kumar Puri, Advocate for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the fourth petition filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.132 dated 11.12.2019 under Sections 22/29/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act") registered at Police Station Sadar Phagwara, District Kapurthala.
2. The brief facts are that on 11.12.2019, when ASI Mangat Gupta along with other police officials was present at T-Point Madhopur in connection with picketing of road and checking the vehicles, one car bearing No.PB-09-K-6236 Make Indica came. The police party with the gesture of torch light asked the driver to stop the car, who after opening the window, thrown the plastic bag towards backside. Upon suspicion, the car was stopped, then the driver thrown the bag inside the trees. Thereafter, the driver disclosed his name as Paramjit Singh *alias* Pamma (petitioner herein), who disclosed that the bag which was thrown contains the intoxicant tablets. Upon search of



the bag, 920 loose tablets containing the salt “Tramadol Hydrochloride” were recovered. Subsequently, the FIR (*supra*) was recovered.

3. The third petition was dismissed as withdrawn on 14.10.2024; second petition was dismissed as withdrawn on 01.04.2024 and the first petition was dismissed as withdrawn on 16.01.2024. Learned counsel for the petitioner submits that the present petition has been filed with the change in circumstances as now 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*** till date, out of 12 witnesses cited by the prosecution, 08 are yet to be examined.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the FIR (*supra*) as the intoxicant tablets could have been easily planted since they were loose. Further, there is a clear violation of Section 50 of NDPS Act, since no offer was given to the petitioner, while conducting his personal search. Learned counsel submits that in spite of the fact that the FIR (*supra*) was registered on 11.12.2019 and more than 05 years have passed, the prosecution has failed to conclude its evidence. The petitioner is behind the bars for the last more than 01 year, 08 months and 26 days.

5. 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 available on record to prove his complicity. Further, the petitioner is involved in other cases also. However, he could not controvert the fact that the petitioner is behind the bars the last more than 01 year, 08 months and 26 days.



6. 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 08 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 12 witnesses cited by the prosecution, only 04 have been examined so far. The petitioner has already undergone a period of 01 year, 08 months and 26 days of custody and the delay in conclusion of trial cannot be attributed him.

7. 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.

8. 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.

9. 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)

10. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner-Paramjit Singh @ Pamma 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.

11. 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.

May 23, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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