

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

CRM-M-14592-2025

Date of Decision: 23.09.2025

VIPAN KUMAR

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. L.S. Sekhon, Advocate for the petitioner.

Mr. Gorav Kathuria, DAG Punjab.

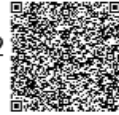
YASHVIR SINGH RATHOR, J. (Oral)

1. This is the second application under Section 483 of BNSS, 2023 for grant of regular bail in case FIR No.63, dated 10.04.2023, registered at Police Station Samana (Sadar Samana) District Patiala, under Sections 21 and 29 of NDPS Act, 1985.

2. In compliance of order dated 01.09.2025, short reply by way of affidavit dated 22.09.2025 of Fateh Singh Brar, PPS, Deputy Superintendent of Police, Sub-Division Samana, District Patiala filed on behalf of the respondent-State is taken on record. Registry is directed to tag the same at an appropriate place.

3. Learned counsel for the petitioner as well as learned State counsel have been heard and material collected by the police during investigation has been perused.

4. Brief facts of the prosecution case are that on 10.04.2023, ASI Pargat Singh alongwith other police officials was present at bus stand Mavi Kallan when he received secret information to the effect that Vipin Kumar (petitioner) and Sandeep Sharma bring heroin from Amritsar, Delhi & Rajasthan and sell the same to the customers in Samana, Patiala, Nabha etc and shall be coming in a car. On the same

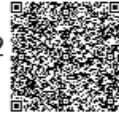


day, one car was seen coming which was stopped but one of the occupant ran away whose name was later on disclosed as Sandeep Sharma but petitioner was apprehended and 01 kg heroin was recovered from his possession. Later on, said Sandeep Sharma was also arrested on 25.04.2023. After completion of usual investigation, final report was presented for trial.

5. Learned counsel for the petitioner argued that petitioner has been falsely implicated in the present case and false recovery has been planted. Petitioner is in custody since 10.04.2023. After completion of investigation, final report was presented and charge has already been framed. Out of 23 witnesses cited by the prosecution, only 7 witnesses have been examined till date. The trial is likely to take sufficiently long time to conclude and in these circumstances, further detention of the petitioner is not required and he deserves to be released on bail.

6. On the other hand, learned State counsel has opposed the bail and argued that 01 kg heroin has been recovered which falls within the commercial quantity and rigors of Section 37 of NDPS Act are attracted, which bar grant of bail, unless twin conditions prescribed in the said provision are satisfied. However, in view of the huge recovery, it cannot be presumed that petitioner is not guilty of the offence or that he is not likely to commit the offence, in case he is released on bail. Learned counsel contended that the bail application be dismissed.

7. Petitioner is in custody since 10.04.2023. After completion of investigation, final report was presented and charge has already been framed but out of 23 witnesses cited by the prosecution, only 7 witnesses have been examined till date. The trial is likely to take sufficiently long



time to conclude. Hon'ble Supreme Court in 2023 Live Law (SC) 533, ***Rabi Prakash Vs. State of Odisha*** has held that prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37 of the NDPS Act. To the same effect is the law laid down by Hon'ble Supreme Court in 2024 (4) RCR (Criminal) 172, ***Ankur Chaudhary Vs. State of Madhya Pradesh*** and 2023 AIR(SC) 1648, ***Mohammad Muslim alias Hussain Vs. State (NCT of Delhi)*** in which Hon'ble Supreme Court while granting regular bail to an accused, from whom commercial quantity of contraband was recovered, has held that grant of bail on the ground of undue delay in trial cannot be said to be fettered by Section 37 of the NDPS Act. A co-ordinate Bench of this Court has also held so in judgment reported as Law Finder Doc Id #2770222 – ***Garpawandeep Singh alias Bihari Vs. State of Punjab*** decided vide judgment dated 27.08.2025 passed in CRM-M-19408 of 2025 wherein 260 grams of heroin was allegedly recovered. Hon'ble Supreme Court while deciding Special Leave to Appeal (Criminal) No.12788/2023 titled ***Nandalal Mondal alias Abhay Mondal Vs. The State of West Bengal***, vide judgment dated 03.01.2024 while taking into consideration the period of custody already undergone by the petitioner/under-trial, the fact that he does not have any criminal antecedents and also keeping in view the prolonged incarceration, ordered release of the petitioner on bail who was also found in possession of 10,000 ml of codeine phosphate- a cough syrup which falls within the commercial quantity.



8 . Therefore, taking into consideration the facts and circumstances of the present case and also the ratio of law laid down in afore-mentioned case laws, I am of the opinion that no useful purpose will be served by keeping the petitioner in custody and resultantly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions. However, in addition to the terms and conditions that may be imposed by the trial Court/Duty Magistrate concerned, petitioners shall remain bound by the following conditions:-

- (i) Petitioner shall not misuse the concession of bail granted to him.
- (ii) Petitioner shall not tamper with any evidence, oral or documentary during the trial.
- (iii) Petitioner shall regularly appear before the trial Court and he will not commit any offence of similar nature while on bail.
- (iv) Petitioner shall deposit his passport, if any, with the trial Court.
- (v) Petitioner shall not in any manner delay the trial.

In case of breach of any of the aforesaid conditions or the conditions that may be imposed by the trial Court or upon any other sufficient cause, the State shall be at liberty to apply for cancellation of bail.

(YASHVIR SINGH RATHOR)
JUDGE

23.09.2025
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No