



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
218

Date of decision: 15.07.2025

1. CRM-M-19902-2024

Gurwinder Singh @ Gindha
State of Punjab
Versus
....Petitioner
....Respondent

2. CRM-M-25645-2024

Mangat Rama @ Mangu
State of Punjab
Versus
....Petitioner
....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kulwinder S. Lakhanpal, Advocate
for the petitioner in CRM-M-19902-2024.
Mr. Tanvir Singh Attariwala, Advocate
for the petitioner in CRM-M-25645-2024.
Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Vide this common order, I intend to dispose of CRM-M Nos.19902 and 25645 of 2024, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CRM-M-19902-2024.
2. Prayer in both these petitions filed under Section 439 of Cr.P.C. is for grant of regular bail to the petitioner(s) namely Gurwinder Singh @ Gindha and Mangat Ram @ Mangu in FIR No.0151 dated

2025:PHHC:085306



07.10.2023 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Bullowal, District Hoshiarpur.

3. As per the case of the prosecution, on 07.10.2023, SI Kamaljit Singh along with other police officials were patrolling near village Susana when they received a secret information that Mangat Ram @ Mangu (petitioner herein in CRM-M-25645-2024), his brother Lakshman Kumar @ Labha, and Gurwinder Singh @ Ginda (petitioner herein in CRM-M-19902-2024) were carrying intoxicant substances to sell in nearby villages. A naka was set up near Senior Secondary School, Pajjoditta, where a motorcycle approaching from village Pajjoditta was stopped. On seeing the police party, the driver, Mangat Ram, and the pillion rider, Lakshman Kumar, threw polythene envelopes containing intoxicant powder on roadside, while the third pillion rider, Gurwinder Singh, threw a kit bag and fled away from the spot. Thereafter, the police recovered 300 grams of intoxicant powder from Mangat Ram's envelope, 310 grams from Lakshman Kumar's envelope, and 270 grams from Gurwinder Singh's kit bag. Thereafter, the impugned FIR was registered.

4. Learned counsel for the petitioner – Gurwinder Singh @ Gindha *inter alia* contends that admittedly nothing has been recovered from the conscious and exclusive possession of the petitioner – Gurwinder Singh @ Gindha and he has been falsely implicated as an accused in the FIR (supra) on the basis of the disclosure statement made



by co-accused, during his custodial interrogation, which has no evidentiary value in the eyes of law as the same is hit by Sections 25 and 26 of the Evidence Act.

5. Learned counsel for the petitioner representing Mangat Rama @ Mangu submits that the case of the petitioner is squarely covered by the ratio of law laid down by the Hon'ble Supreme Court in ***Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal SLP (Crl.) No(s).12788/2023.***

6. Learned counsel for the petitioner(s) further submits that both the petitioner(s) have suffered the incarceration of 01 year, 09 months and 04 days and there are total 13 prosecution witnesses cited in the list of witnesses, out of which, no PW has been examined till date and the trial is likely to take long time in conclusion.

7. *Per contra*, learned State counsel has filed custody certificates today in the Court which are taken on record and he opposes the prayer made by learned counsel for the petitioner(s) on the ground that huge quantity of contraband was recovered from the petitioner(s), which falls within the ambit of commercial quantity and further the petitioner(s) are involved in other cases also and as such, keeping in view the embargo created under Section 37 of the NDPS Act, they are not entitled for any relief, however, he could not controvert the fact that no PW has been examined till date.

8. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner(s) are



behind the bars from the last 01 year, 09 months and 04 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 13 prosecution witnesses, no PW has been examined so far.

9. A two Judge bench of the Hon'ble Supreme Court in *Nandlal Mondal @ Abhay Mondal's case (supra)*, 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*

2025:PHHC:085306



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.

10. 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(s)-accused. Keeping the petitioners in further detention without the prospect of the trial being concluded in the near future, would be violative of their 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 (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,

2025:PHHC:085306



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)

11. A two Judge Bench of Hon'ble Supreme Court in "**Satender Kumar Antil vs. CBI**", (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

12. Further keeping in view the law laid down by the Hon'ble Supreme Court of India in "**Prabhakar Tewari vs. State of U.P. and**

2025:PHHC:085306



another” 2020 (1) R.C.R. (Criminal 831) and “*Maulana Mohd. Amir Rashadi vs. State of U.P. and another*”, 2012 (2) SCC 382, the involvement of the petitioner(s) in other cases would not be a ground to refuse grant of concession of regular bail.

13. In view the discussion above, both the present petitions are allowed. Accordingly, without commenting upon the merits of the case, the petitioner(s) namely Gurwinder Singh @ Gindha and Mangat Ram @ Mangu are ordered to be released on regular bail during pendency of the trial, on their furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/trial Court.

14. 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.

15. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

15.07.2025
yakub

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