



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

213

CRM-M-17783-2025

Date of decision: 15.09.2025

JASVIR SINGH ALIAS SHEERA

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Ms. H.K. Hundal, Advocate for the petitioner.

Mr. Gorav Kathuria, DAG Punjab.

YASHVIR SINGH RATHOR. J.(Oral)

1. This is the fourth petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed for grant of regular bail to the petitioner in case FIR No.87 dated 28.06.2022, under Section 22(b) and 29 of NDPS Act, 1985, registered at Police Station Goraya, District Jalandhar Rural, Punjab.
2. Status report dated 11.09.2025 by way of affidavit of Sarwan Singh Bal, PPS, Deputy Superintendent of Police, Sub-Division Phillaur, Jalandhar (Rural) has been filed on behalf of respondent-State and the same is taken on record.
3. Brief facts of the prosecution case are that on 28.06.2022, police party headed by SI Atamjit Singh was on routine patrolling duty along with other police officials, and when they reached near village Rurka Kalan, one person was seen coming on foot, who on seeing the police party tried to turn away towards the fields but he was apprehended by the police party. He was carrying a bag which was checked and it was found to be containing 107 grams of contraband, which



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was later on found to be a mixture of Cocaine and Alprazolam. He was arrested and contraband was seized and after completion of usual investigation, final report was presented in the Court for trial on 21.12.2022.

4. Upon notice, the State counsel has appeared and has opposed the bail. Both the parties have been heard and material placed on the file has been pursued.

5. Learned counsel for the petitioner contended that the contraband recovered from the possession of accused is 107 grams of mixture of Cocaine and Alprazolam. The quantity above 100 grams of Cocaine and 100 grams of Alprazolam falls within commercial quantity and since it was a mixture, it will be a debatable question, whether both the contrabands can be mixed together in coming to the conclusion that quantity recovered was commercial and in case, both the contrabands are taken separately, the quantity may be non-commercial. Learned counsel for the petitioner contended that petitioner is in custody since 28.06.2022. The challan was presented on 21.12.2022 and out of 36 witnesses cited by the prosecution, only 06 witnesses have been examined till date. The trial is likely to take some more time to conclude and in view of his prolonged incarceration, petitioner is entitled to be released on bail.

6. On the other hand, learned State Counsel has opposed the bail and argued that huge quantity of 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. As per allegations, petitioner was found to be in possession of 107 grams of contraband, which was later on found to be a mixture of Cocaine and Alprazolam. Petitioner is in custody since 28.06.2022 and only 06 witnesses have been examined till date out of 36 witnesses cited by the prosecution, and trial thus has been delayed and there is also no likelihood of the same being concluded soon. Hon'ble Supreme Court in 2023 Live Law (SC) 533, **Rabi Prakash Vs. State of Odhisha** 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



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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. In CRM-M 37827/2022, titled **Parkash Sahu Vs. State of Punjab decided** vide judgment dated 14.12.2002, a co-ordinate Bench of this Court also granted bail on the ground of delayed trial in which 02 kg. 600 grams of opium was recovered which was marginally above the commercial quantity of 02 kg 500 grams.

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 bond and surety bond 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, petitioner 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.

15.09.2025
amandeep

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No