



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

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CRM-M-18989-2025

Date of decision: 11.12.2025

Ritesh Shah

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Naveen Sharma, Advocate for the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J.(ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No. 69 dated 28.06.2024 registered against him, for commission of offences punishable under Sections 20 of Narcotic Drugs and Psychotropic Substances, Act 1985 at Police Station Shambhu, District Patiala, has prayed for grant of bail.
2. Relevant facts emerging from documents on record be noticed hereinbelow:-

On 28.06.2024 based on a chance recovery, Police team headed by SI Bahadur Ram seized 1 kg 500 grams of 'charas' (Commercial Quantity) from possession of a person who introduced himself as Ritesh Shah, son of Pahlad Shah, resident of Village Jodopur Shukul, District Gopalganj, Bihar. After the statutory formalities were complied with, FIR was lodged.

On culmination of investigation, challan was prepared and filed in the Court on 01.10.2024.

Petitioner/accused who was arrested on 28.06.2024 moved an application for grant of bail before the learned Judge Special Court, Patiala.

The same was dismissed vide order dated 29.01.2025. Aggrieved of which,



present petition has been filed.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated, no recovery was effected from him. Recovery was effected from an unclaimed bag kept on the rack above the passenger seat in the bus, in which petitioner was travelling. The other leg of submission raised by learned counsel is that there has been gross violation of the provisions of Section 42 and Section 50 of the Act inasmuch as no notice was issued to petitioner as envisaged under Section 50 the Act. Further the falsity of the case set up by the prosecution is apparent from the fact that despite the alleged recovery of contraband was effected from busy public place but no efforts were made by IO to join any independent person as a witness to the case proceedings.

Continuing further, learned counsel submits that on completion of investigation, challan was filed. Petitioner was charge-sheeted on 02.12.2024. But till date, out of 11 prosecution witnesses, only 04 have been examined so far, thus, likelihood of completion of trial in the near future is quite remote. Hence, further incarceration of petitioner in custody, would not serve any useful purpose and would also be violative of his Fundamental rights guaranteed under Article 21 of the Constitution of India.

Towards the end, learned counsel contends that petitioner, whose past antecedents are quite clean (being not involved in any other criminal case), deserves a lenient view to be taken in his favour by extending him the concession of bail. Prayer for allowing the petition has been made.

4. Status report dated 10.12.2025 by way of affidavit of Mr. Harmanpreet Singh, PPS, Deputy Superintendent of Police, Patiala, has been filed. Learned State counsel has opposed the request for grant of bail on the



ground that contraband recovered from the petitioner is ‘Commercial Quantity’. In view of the quantity of the contraband recovered from the petitioner and co-accused arrested at the site, as per learned State counsel the rigors of Section 37 of NDPS Act are attracted which bar the grant of bail, unless the twin conditions prescribed in the provision are satisfied. Dismissal of the petition has been prayed for.

5. I have heard the learned counsel for the parties and have gone through the documents on record.

6. Before proceeding to discuss the rival contentions, it would be appropriate to refer to judgment of Hon’ble Supreme Court wherein case titled as ***Shambu Lal Gurjar Vs. State of Rajasthan, SLP Criminal 16671 of 2024***, decided on 23.04.2024, it was held as under:-

“The allegations against the petitioner is that there is a recovery of 60 kgs poppy husk/straw (contraband article) from him and prior to this incident, he has three criminal antecedents relating to the NDPS Act registered in the year 2019, 2021 and 2022. The third bail application of the petitioner was dismissed by the High Court. He has already undergone about 1 year and 8 months in jail.

Heard learned counsel for the petitioner and the respondent State.

Considering the fact that the contraband article is a poppy straw although he has three criminal antecedents but since he has been in jail for the last 1 year and 8 months, we are of the opinion that a case of bail is made out for the petitioner.”

Further in **Chitta Bishwas @ Shubash Vs. State of West Bengal**
Law Finder Doc Id# 1938935, considering the duration of custody and
progress in trial, Hon’ble Supreme Court granted bail to an



accused/appellant who was found in possession of 46 bottles of PHENSYDRYL Cough Syrup containing codeine mixture above commercial quantity.

In *Md Aliul Islam @ Aliul Islam @ Aliul Vs. State of West Bengal Law Finder Doc Id# 2734487*, Hon'ble Supreme Court granted bail to an accused, involved in a case under Section 21(c)/27A of NDPS, considering custody period and similarity with other accused, whose bail had been allowed.

Similarly in *Devrata Mondal Vs. State of West Bengal Law Doc Finder Id # 2734476*, on the ground of prolonged custody and parity with other accused, co-accused Davrata, who was allegedly caught keeping in his possession 290 bottles of PHENSYDRYL Cough Syrup (Commercial quantity) was granted the concession of bail by the Hon'ble Supreme Court.

In *Santarul Islam Vs. State of West Bengal, Law Finder Doc Id# 2735329*, Hon'ble Supreme Court granted bail to the petitioner who was also caught keeping in his illegal possession of PHENSYDRYL Cough Syrup (on the ground of prolonged custody and nature of contraband).

Constitutional liberty must override the statutory embargo. Guided solely by the principle of constitutional liberty and considering that possibility of completion of trial in near future, for out of 11 prosecution witnesses only 4 have been examined till date, petitioner whose past antecedents are quite clean and who is not involved in any other case of like nature, this Court is, thus, of the opinion that in the facts and circumstances as mentioned above, his (P) further incarceration in custody would not serve any purpose. Resultantly, in view of discussion made herein above, petitioner is granted the concession of bail subject to his furnishing



bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

- (i) The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) The petitioner will not tamper with the evidence during the trial.*
- (iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- (vii) The petitioner shall not in any manner misuse his liberty.*
- (viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.*
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.*

7. Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this



order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)
JUDGE

11.12.2025
Hemant

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