



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

07

**CRM-M-20369-2025
Reserved on :20.11.2025
Pronounced on: 27.11.2025**

YUSAF MASIH @ JOSEPH MASIH

.....PETITIONER

Versus

STATE OF PUNJAB

..... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Harish Bhatti, Advocate
for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 15 of Narcotic Drugs & Substance Act 1985, hereinafter being referred to as NDPS Act, [Sections 25, 29-61-85 of NDPS Act added later on], the FIR No.94 dated 27.08.2023, has been lodged in Police Station Maloud, District Ludhiana (Rural). With regard to commission of above mentioned offence, the petitioner has been arrested. He is in custody, and therefore, craving for the concession of bail. This is first petition for bail, filed by the petitioner, under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 hereinafter being referred to as “BNSS” only.

2. In nut-shell, the facts emerging from record are that the FIR of



this case came into being in view of a report of Inspector Vinod Kumar. It was reported by the above-named police officer that on 27.08.2023 at about 10 A.M., when he was heading a police team deputed for patrolling duty & vehicle checking, at the barricade near Lahra Factory, GT road Ludhiana, he spotted a car bearing registration No.PB-23Y-0440. As per complainant, he stopped the car and when on the basis of suspicion, after completing usual formalities as prescribed under the law, the boot of the car was checked it was found that in the above-mentioned car there were 06 bags, each bag containing 25 kg. of poppy-husk (total 150 kg).

3. It is the case of the prosecution that in view of above-mentioned recovery, the necessary formalities with regard to seizure and sealing of contraband, lodging of FIR and arrest of accused were undertaken and further investigation taken up.

4. Heard.

5. It has been contended on behalf of petitioner that petitioner is innocent, who has been falsely implicated in the present case. It has also been contended by learned counsel for the petitioner that the petitioner has already faced prolonged incarceration for being in custody for a period of 02 years and 02 months. While claiming that the trial of the case is not likely to be concluded in near future, the learned counsel for the petitioner has argued that the petitioner is entitled for bail during the course of trial.

6. It has also been contended by learned counsel for the petitioner that since the petitioner has already suffered a very long incarceration, he is entitled to bail, even if the twin conditions as enshrined under Section 37 of NDPS Act are not fulfilled, because the fundamental right to life and liberty



overrides the conditions enshrined under Section-37 of NDPS Act in case of delayed in trial.

7. The learned State counsel has controverted the above-mentioned submissions. The learned State counsel has argued that in the present case, the petitioner was travelling in the same car, where from contraband was recovered and therefore, as per settled law, he is presumed to be in conscious possession of contraband. According to learned State counsel, in the instant case the quantity of recovered contraband is a huge quantity, which comes within the parameters of commercial quantity and therefore, without satisfying the twin conditions enshrined under Section 37 of NDPS Act, the petitioner cannot be afforded the benefit of bail.

8. In support of his arguments, the learned State counsel has referred to the principles of law laid down by the Hon'ble Supreme Court of India in the case of ***The State (NCT of Delhi) Narcotics Control Bureau v. Lokesh Chadha, (2021) 5 SCC 724***, wherein it has been held that no person accused for offences involving a commercial quantity shall be released on bail, where the public prosecutor opposes the application, unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

9. The record has been perused carefully.

10. As far as the principles governing the benefit of bail in a case related to NDPS Act are concerned, the principles of law laid down by the Hon'ble Supreme Court in the case of ***'Mohd. Muslim @ Hussain v. State (NCT of Delhi), 2023 SCC OnLine SC 352*** are relevant wherein the Hon'ble Supreme Court has held that grant of bail on account of undue delay in trial



cannot be said to be fettered under Section 37 of the NDPS Act, given the imperative of Section 436-A which is applicable to offences under the Act.

11. In this regard it is also relevant to mention that the Hon'ble Supreme Court of India in the case of ***Manmandal and Another v. State of West Bengal, Special Leave Petition (Criminal) No.8656 of 2023 decided on 14.09.2023*** and ***Rabdi Prakash v. State of Odisha, 2023 SCC Online SC 110***, extended the benefit of bail to the accused, who had been incarcerated for a period of almost 2-3 years and the trial was likely to take considerable time. The above-said benefit has been accorded by observing that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution, and in such a situation, the constitutional principles must override the statutory embargo contained under Section 37 of the NDPS Act.

12. In addition to above, in a recently pronounced verdict in the case of ***Santosh Pawar Vs. State of Chhattishgarh & Anr.' Criminal Appeal No.4883/2025***, the Hon'ble Supreme Court has observed that rigours of Section 37 of NDPS Act will not be bar for considering the case of an accused for bail as it comes with a condition that the prosecution would press for an early completion of trial which was not happening in the above-mentioned case. In the case of above-mentioned case, the Hon'ble Supreme Court of India has held that appellant is entitled for bail in view of her incarceration for a period of 19 months.

13. Similarly in another case of ***Satender Kumar Antil v. Central Bureau of Investigation (2022) 10 SCC 51*** prolonged incarceration and inordinate delay engaged the attention of the court, which considered the



correct approach towards bail, with respect to several enactments, including Section 37 NDPS Act. The court expressed the opinion that Section 436A (which requires inter alia the accused to be enlarged on bail if the trial is not concluded within specified periods) of the Criminal Procedure Code, 1973 would apply.

14. In the case of *Ismail Khan @ Pathan vs. State of Rajasthan Crminal Appeal No.4911 of 2025* with regard to recovery of commercial quantity of narcotic substance the Hon'ble Supreme Court of India accorded the benefit of bail to the accused in view of prolonged incarceration for a period of 02 years and 08 months of the accused. The similar benefit has been given in another appeal i.e. *SLP No.15699-2025 titled as Ebrahim @ Ibrahim SK vs. The State of West Bengal* and in the case of *Pamesh Arora vs. UT Chandigarh Criminal Appeal No.4872 of 2025*.

15. If the facts and circumstances of the present case are analyzed in the light of above-mentioned principles of law, it transpires that:-

- (i) that the petitioner has already suffered prolonged incarceration for a period of 02 years and 02 months;
- (ii) that the trial is not likely to be concluded in near future;
- (iii) that nothing is left to be recovered from the possession of petitioner;
- (iv) that detention of petitioner in judicial lock up is not likely to serve any purpose;
- (v) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- (vi) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the



trial;

16. If the cumulative effect of all the above-mentioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

17. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the following conditions:-

- (i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.
- (ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- (iii) that the petitioner shall not leave India without prior permission of the trial Court.

18. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

(SURYA PARTAP SINGH)
JUDGE

27.11.2025
vipin

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