

**CRM-M-21374-2025 (O&M)****1****231****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-21374-2025 (O&M)****Date of Decision: 29.04.2025****NAUMAN****...PETITIONER****Versus****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Manoj K. Pundir, Mr. Aditya Partap and
Mr. Sumit Mani, Advocates for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

*********Harpreet Singh Brar, J. (Oral)**

1. This is the fourth petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioner in case bearing FIR No. 0036 dated 19.05.2023 registered under Sections 22 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station Kathgarh, Punjab.

2. FIR(supra) was registered on the statement of SI Rakeshwinder Singh who stated that on the day of occurrence, he along with other police officials were travelling in private vehicle and were on patrolling duty. At around 9.25 AM when a bus with passengers came from the other side, the said bus was stopped with a signal for checking, during which a person who was seen carrying a bag in his right hand, quickly jumped out of the back seat and ran towards over bridge Ropar, who went a little further and dropped the bag on the ground. SI Rakeshwinder Singh chased him with the help of other police officials and caught him and he disclosed his name as Nauman (petitioner herein). On the basis of suspicion, search of the petitioner along with his

**CRM-M-21374-2025 (O&M)****2**

belongings was conducted and on checking the bag thrown by the petitioner, some leaves were seen coming out and all the leaves in the wax envelope were checked by stacking newspaper on the ground and each leaf marked Tramadol Hydrochloride Tablets 100 mg. and write Mfg. LIC No. G/25/1210 and every leaf was containing 10/10 tablets totalling 8910 tablets. On the basis of aforesaid allegations, FIR(supra) was registered.

3. Learned counsel for the petitioner submits that this is the fourth petition seeking grant of regular bail to the petitioner and the third petition was dismissed as withdrawn on 25.02.2025 at that stage on the ground that out of total 14 prosecution witnesses, 13 PWs had already been examined and only 01 PW was remaining to be examined, however, jurisdictional investigating officer has presented a supplementary challan against one more accused Jaimal Singh. As such, charges were framed on 27.03.2025 vide Annexure P-11 and *de novo* trial commenced and the petitioner has suffered incarceration of almost 02 years. Further the case of the petitioner is squarely covered by the ratio of law laid down by Hon'ble Supreme Court in ***Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal SLP (Crl.) No(s).12788/2023.***

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the prayer made by the petitioner on the ground that there is sufficient material placed on record to prove the complicity of the petitioner, however, he could not controvert the fact that the petitioner is not involved in any other case and he is confined in judicial custody for the last 01 year 11 months and 06 days and in the supplementary challan, 17 prosecution witnesses have been cited and none has been examined out of those 17 PWs.



CRM-M-21374-2025 (O&M)

3

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 22.05.2023 and he is not involved in any other case under the NDPS Act. The final report under Section 173 Cr.P.C. was presented before the concerned Court and subsequently, charges were framed. Currently, the trial is at the stage of prosecution witness and in the supplementary challan, out of 17 witnesses cited by the prosecution, none has been examined so far. The petitioner has already undergone a period of 01 year 11 months and 06 days of custody and the delay in conclusion of trial cannot be attributed to him.

6. A two Judge bench of the Hon'ble Supreme Court in *Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal SLP (Crl.) No(s).12788/2023* 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 @ Nasirdin 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*



CRM-M-21374-2025 (O&M)

4

Bengal SLP(Crl.) No. 16663/2023, Moidul 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.

7. 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-accused. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

8. 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, given the imperative of Section 436A which is applicable to offences under the NDPS Act



CRM-M-21374-2025 (O&M)

5

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)

9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner-Nauman is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

10. 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.

(HARPREET SINGH BRAR)
JUDGE

29.04.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No