

**CRM-M-21375-2025 (O&M)****1****232****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-21375-2025 (O&M)****Date of Decision: 29.04.2025****VAKEEL SINGH****...PETITIONER****Versus****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. This is the third petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioner in case bearing FIR No. 29 dated 30.04.2023 registered under Sections 15(b), 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') (Sections 15(c), 29 of NDPS Act and Section 473 of IPC added later on) at Police Station Jhunir District Mansa.

2. FIR(supra) was registered on the statement of police official who stated that on the day of occurrence, he along with other police officials were travelling in government vehicle number PB-31-P5538 and were patrolling in the area of Jhunir. When the police party was going to the Ramanandi from Bhumikhurd main road, and car of the police party reached about 1 km ahead from Bhumikhurd toward Ramanandi, there was rough road in the left side and on that road 2 persons were driving a motorcycle and when they tried to reach on the main road, they had bag in their centre and they panicked by seeing the police party and tried to turn their motorcycle back and in the mean time there

**CRM-M-21375-2025 (O&M)****2**

motorcycle slipped and they fell on the road with the bag, then SI who had complained about the occurrence, stopped the vehicle and get down and with the help of his fellow employees surrounded the said youngsters and tried to make a party with private witnesses, but no one was ready. Then SI asked the names of the apprehended persons repeatedly, and the motorcycle driver told his name as Vakeel Singh (petitioner herein) and the other person disclosed his name as Manpreet Singh. On the basis of suspicion, search of the petitioner and co-accused along with their belongings was conducted and on checking the plastic bag which was tied with the rope and was in the possession of Vakeel Singh and Manpreet Singh, poppy husk was recovered. The confiscated poppy husk weight was measured by the computer scale which weighed 15 kg including a plastic bag. The said poppy husk was put in the same plastic bag and the plastic bag was sealed and the parcel was made. On the basis of aforesaid allegations, FIR(supra) was registered. During investigation, petitioner and co-accused Manpreet Singh got recovered two bags containing 25 kgs of poppy husk. Thus, they found in joint possession of 65 kgs of poppy husk.

3. Learned counsel for the petitioner submits that this is the third petition seeking grant of regular bail to the petitioner and the second petition was dismissed as withdrawn on 26.09.2024. Learned counsel *inter alia* contends that petitioner has been in custody for the last 01 year and 11 months and now the trial of the case has started *de novo* as supplementary challan has been filed against co-accused Ramdeen and conclusion of trial will take long time and petitioner is not involved in any other case under the NDPS Act and he is involved in one more case under the Excise Act, in which he is on bail. Further the case of the petitioner is squarely covered by the ratio of law laid down by



CRM-M-21375-2025 (O&M)

3

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 confined in judicial custody for the last 01 year 11 months and 24 days and in the supplementary challan, 09 prosecution witnesses have been cited and none has been examined out of those 09 PWs.

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 04.05.2023 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 09 witnesses cited by the prosecution, none has been examined so far. The petitioner has already undergone a period of 01 year 11 months and 24 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*,



CRM-M-21375-2025 (O&M)

4

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 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 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-Vakeel Singh 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