



CRM-M-24038-2025 (O&M) and one more case

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226+227

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1.

CRM-M-24038-2025 (O&M)
Date of Decision: 03.07.2025

KULDEEP SINGH @ GAGGU

...PETITIONER

Versus

STATE OF PUNJAB

...RESPONDENT

2.

CRM-M-24203-2025 (O&M)
Date of Decision: 03.07.2025

SONA SINGH @ SONU

...PETITIONER

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

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

Mr. Nitesh Sharma, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. These two petitions are decided vide this common order as both the petitions are arising out of the same FIR. However, the facts are taken from CRM-M-24203-2025.

2. These are the two petitions filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioners in case bearing FIR No. 150 dated 30.09.2023 (Annexure P-1) registered under Sections 15(C) of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act') (Section 29 of NDPS Act added later on) at Police Station Jaitu District Faridkot.

3. As per the contents of FIR, on 30.09.2023 the police intercepted two cars of make Honda City having white colour and golden colour. The white

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colour car was driven by Parminder Singh @Baggi and he was accompanied by Ajay Kumar. Similarly, the golden colour car was driven by Kuldeep Singh @Gaggu (petitioner) and he was accompanied by Sona Singh(petitioner). Both the cars were searched in the presence of a gazetted officer and the police recovered 7 plastic bags having 20 kg poppy husk each from the dickey of the white colour car, driven by Parminder Singh @ Baggi. Similarly, the search of another golden colour car led to recovery of 6 plastic bags containing 20 kg poppy husk each and one bag containing 10 kg poppy husk. The petitioners and co-accused were arrested after registration of a formal case.

4. Learned counsels for the petitioners contend that this is the third petition seeking grant of regular bail on behalf of petitioner-Sona Singh @ Sonu and the second petition was dismissed as withdrawn on 30.07.2024 and the present petition has been filed on the ground that cases of the petitioners are squarely covered by the ratio of law laid down by Hon'ble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***. He further submits that two similarly situated co-accused namely Parminder Singh @ Baggi and Ajay Kumar have been granted the concession of regular by this Court vide orders dated 22.04.2025 and 20.05.2025 passed in CRM-M-34516-2024 and CRM-M-4586-2025 respectively.

5. *Per contra*, the learned State counsel opposes the grant of regular bail to the petitioners on the ground that 130 kg of poppy husk has been recovered from the possession of the petitioners and thus, they are not entitled to any relief. However, he could not controvert the fact that both the petitioners are behind the bars for the last more than 01 year and 08 months and 27 days and they are not involved in any other case and not even a single prosecution witness has been examined so far.

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6. A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

7. After perusing the record of the case with the assistance of the learned counsel for the parties, it transpires that the petitioners are behind the bars since last 01 year 08 months and 27 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as out of 24 prosecution witnesses, none has been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner.

8. 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 @**



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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 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.

9. 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 petitioners-accused. Keeping the petitioners 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. 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 in-



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volving 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)

10. In view the discussion above, the present petitions are allowed. Accordingly, without commenting upon the merits of the case, the petitioners- Kuldeep Singh @ Gaggu and Sona Singh @ Sonu are ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

11. 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.



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12. A photocopy of this order be placed on the files of other connected case.

(HARPREET SINGH BRAR)
JUDGE

03.07.2025
Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No