



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

220

CRM-M-25443-2025

Date of decision: 22.09.2025

SUKHWINDER SINGH ALIAS JAGDISH ALIAS DEESHAPetitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. N.S. Sodhi, Advocate for the petitioner.

Mr. Gorav Kathuria, DAG Punjab.

YASHVIR SINGH RATHOR. J.(Oral)

1. This is the third petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed by the petitioner for grant of regular bail to the petitioner in case FIR No.287 dated 16.09.2023, under Section 21 and later on added Section 29 (vide DDR No.16 dated 18.09.2023) of NDPS Act, registered at Police Station STF, District SAS Nagar Mohali.
2. Brief facts of the prosecution case are that on 16.09.2023, HC Luvpreet Singh along with other police officials was on patrolling duty and at about 6:20 pm, when they reached near bus-stand Gudhar Dhandi via GT Road Ferozepur to Fazilka, he received a secret information to the effect that Harmesh Singh and Mukhtiar Singh deal in sale of heroin and presently also, they are coming from Goluka curve side towards Lakho Ke Behramin in a car bearing No.PB-01-D-3644 and they can be apprehended. Thereafter, Mukhtiar Singh and Harmesh Singh were apprehended and 1.5 kg of heroin was recovered from the car. Said Harmesh Singh disclosed that the recovered contraband was given to



them by his brother-in-law Sukhwinder Singh @ Jagdish Singh @ Deesha (petitioner) and thereafter, petitioner was also nominated as an accused and arrested on 18.09.2023. He also suffered a disclosure statement and in pursuance thereof, he got recovered 02 kg of heroin from the fields. After completion of investigation, challan was presented for trial.

3. Upon notice, the State counsel has appeared and has opposed the bail. Both the parties have been heard and material placed on the file has been perused.

4. Learned counsel for the petitioner contended that the petitioner has been falsely implicated on the basis of disclosure statement of co-accused namely Harmesh Singh and false recovery has been planted upon him. Learned counsel next contended that challan has already been presented and till date, only 09 witnesses have been examined and 03 have been given up out of the total 24 witnesses cited by the prosecution. The trial is likely to take some more time to conclude. Learned counsel further contended that prolonged incarceration and undue delay in disposal of the trial can over-ride the rigors of Section 37 of the NDPS Act considering the fundamental right of personal liberty of petitioner under Article 21 of the Constitution of India and learned counsel prayed that petitioner be released on bail. In support of his contention, learned counsel for the petitioner has relied upon judgments of this Court in CRM-M-21794 of 2023–**Sandeep Singh Vs. State of Punjab** decided on 05.05.2023, CRR-1785 of 2018 (O&M)-**Vicky Kaur Vs. State of Punjab**, decided on 13.08.2018, CRM-M-14029 of 2018–**Kamlesh Vs. State of Punjab**, decided on 06.05.2015, CRM-M-17321 of 2025–**Jassu Ram @ Jasuram Vs. State of Punjab**, decided on 04.04.2025 and a judgment of Hon'ble Supreme Court in Special Leave to



Appeal (Crl.) No. (s).12788/2023 – **Nandalal Mondal @ Abhay Mondal Vs. The State of West Bengal.**

5. On the other hand, learned State Counsel has opposed the bail and argued that huge quantity of contraband has been recovered, which falls within the commercial quantity and rigors of Section 37 of NDPS Act are attracted, which bar grant of bail, unless twin conditions prescribed in the said provision are satisfied. However, in view of the huge recovery, it cannot be presumed that petitioner is not guilty of the offence or that he is not likely to commit the offence, in case he is released on bail. Learned counsel contended that the bail application be dismissed.

6. As per prosecution case, petitioner was found to be in possession of 2 kg of heroin which is commercial quantity. Petitioner is in custody since 18.09.2023 and till date, only 09 witnesses have been examined and 03 witnesses have been given up out of the total 24 witnesses cited by the prosecution, and trial thus has been delayed and there is also no likelihood of the same being concluded soon. Hon'ble Supreme Court in 2023 Live Law (SC) 533, **Rabi Prakash Vs. State of Odhisha** has held that prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37 of the NDPS Act. To the same effect is the law laid down by Hon'ble Supreme Court in 2024 (4) RCR (Criminal) 172, **Ankur Chaudhary Vs. State of Madhya Pradesh** and 2023 AIR(SC) 1648, **Mohammad Muslim alias Hussain Vs. State (NCT of Delhi)** in which Hon'ble Supreme Court while granting regular bail to an accused, from whom commercial



quantity of contraband was recovered, has held that grant of bail on the ground of undue delay in trial cannot be said to be fettered by Section 37 of the NDPS Act. A co-ordinate Bench of this Court has also held so in judgment reported as Law Finder Doc Id #2770222 – **Garpawandeep Singh alias Bihari Vs. State of Punjab** decided vide judgment dated 27.08.2025 passed in CRM-M-19408 of 2025 wherein 260 grams of heroin was allegedly recovered. Hon'ble Supreme Court while deciding Special Leave to Appeal (Criminal) No.12788/2023 titled **Nandalal Mondal alias Abhay Mondal Vs. The State of West Bengal**, vide judgment dated 03.01.2024 while taking into consideration the period of custody already undergone by the petitioner/under-trial, the fact that he does not have any criminal antecedents and also keeping in view the prolonged incarceration, ordered release of the petitioner on bail who was also found in possession of 10,000 ml of codeine phosphate - a cough syrup which falls within the commercial quantity.

7. Therefore, taking into consideration the facts and circumstances of the present case and also the ratio of law laid down in afore-mentioned case laws, I am of the opinion that no useful purpose will be served by keeping the petitioner in custody and resultantly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bond and surety bond to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions. However, in addition to the terms and conditions that may be imposed by the trial Court/Duty Magistrate concerned, petitioner shall remain bound by the following conditions:-

- (i) Petitioner shall not misuse the concession of bail granted to him.



- (ii) Petitioner shall not tamper with any evidence, oral or documentary during the trial.
- (iii) Petitioner shall regularly appear before the trial Court and he will not commit any offence of similar nature while on bail.
- (iv) Petitioner shall deposit his passport, if any, with the trial Court.
- (v) Petitioner shall not in any manner delay the trial.

In case of breach of any of the aforesaid conditions or the conditions that may be imposed by the trial Court or upon any other sufficient cause, the State shall be at liberty to apply for cancellation of bail.

22.09.2025			(YASHVIR SINGH RATHOR)
amandeep			JUDGE
	Whether speaking/reasoned.	:	Yes/No
	Whether Reportable.	:	Yes/No