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AT CHANDIGARH**

**CRM-M-30855-2025  
Date of decision: 16.09.2025**

AJAY SINGH

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

**CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present:        Mr. Deepak Kumar Arora, Advocate  
                     for the petitioner (through VC).

Mr. Gorav Kathuria, DAG Punjab.

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**YASHVIR SINGH RATHOR, J. (Oral)**

1.                Prayer in the present petition is for grant of regular bail to the petitioner in case having FIR No.95 dated 31.07.2024 registered under Sections 22-C of NDPS Act at Police Station City Patti, District Tarn Taran.

2.                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.

3.                Brief facts of the prosecution case are that on 31.07.2024, Police party headed by SI Jaspal Singh was on patrolling duty in connection with detection of crime and when the police party was at Bahmni wala Chowk, Patti, one person was seen coming on foot by the side of village Bahmni wala & on seeing the police party, he tried to turn back. However, he was stopped and on inquiry, he disclosed his name



as Ajay Singh (petitioner). During his search, a black polythene was recovered from the right pocket of his lower, which was found to be containing 255 grams of heroin and it was converted into a parcel and sealed with seal 'JS' and 'KPS' and taken into possession. Offence under Section 22-C of NDPS was found to have been committed and formal FIR was registered. Petitioner was arrested and after completion of usual investigation, final report was presented in the Court.

4. Learned counsel for the petitioner has argued that the petitioner is in custody since 31.07.2024. The alleged recovery is marginally above the non-commercial quantity as possession of heroin to the extent of 250 grams falls within non-commercial quantity, and despite filing of challan, out of total 8 prosecution witnesses, none of the witnesses has been examined till date. 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 the petitioner has committed a heinous crime as he was found in possession of commercial quantity of heroin and in view of rigors contained in statutory provision of Section 37 of NDPS Act, he is not entitled to the benefit of bail.

6. As per allegations, petitioner was found to be in possession of 255 grams of heroin, which is marginally above the commercial quantity. Petitioner is in custody since 31.07.2024 and none of the witnesses has been examined till date 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 Odisha** 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 which 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. In CRM-M37827/2022, titled **Parkash Sahu Vs. State of Punjab** decided vide judgment dated 14.12.2002, a co-ordinate Bench of this Court also granted bail on the ground of delayed trial in which 02 kg. 600 grams of opium was recovered which was marginally above the commercial quantity of 02 kg 500 grams.

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.

**16.09.2025**  
Priyanka Thakur

**(YASHVIR SINGH RATHOR)**  
**JUDGE**

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|-----------------------------|--------|
| Whether speaking/reasoned : | Yes/No |
| Whether Reportable :        | Yes/No |