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

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**CRM-M-31100-2025
Date of decision: 25.09.2025**

SUNIL KUMAR

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. J.S. Sandhu, Advocate for
Mr. P.S. Sekhon, Advocate for the petitioner.

Mr. Rahul Jindal, AAG, Punjab.

YASHVIR SINGH RATHOR. J.(Oral)

1. Present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed for grant of regular bail to the petitioner in case FIR No.69 dated 25.09.2023, under Sections 22-C and 29 of NDPS Act, registered at Police Station Sadar Rampura, District Bathinda.

2. Brief facts of the prosecution case are that on 25.09.2023, Anil Kumar, Sunil Kumar (petitioner) and Amit Kumar Deswal were apprehended by the police party headed by SI Jagroop Singh on the basis of suspicion. During their personal search, 10 vials of Max Coff, 25 vials of Onerex, 900 tablets of Alprazolam and 800 tablets of Carisoprodol and 800 tablets of Tramadol were recovered, out of which, Alprazolam and Tramadol falls within the definition of



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narcotic substance and subsequently, they were arrested.

3. I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

4. Learned counsel for the petitioner contended that the petitioner has been falsely implicated. Learned counsel next contended that the petitioner is in custody since 25.09.2023 and after completion of usual investigation, challan has been presented. Out of 14 prosecution witnesses, only 07 witnesses have 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 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



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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 and his co-accused were found to be in conscious possession of 10 vials of Max Coff, 25 vials of Onerex, 900 tablets of Alprazolam and 800 tablets of Carisoprodol and 800 tablets of Tramadol. However, only 900 tablets of Alprazolam and 800 tablets of Tramadol falls within commercial quantity. The petitioner is in custody since 25.09.2023 and only 07 witnesses have been examined till date, out of 14 witnesses cited by the prosecution, and trial thus has been delayed and there is also no likelihood of the same being concluded soon. The 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**



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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.

25.09.2025
amandeep

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No