

S. No.202

2025:PHHC:169911



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision:05.12.2025

1. CRM-M-36188 of 2025

Gurpreet Singh
Vs.
State of Punjab

.....Petitioner

.....Respondent

2. CRM-M-40711 of 2025

Digvijay Singh @ Divvijay Singh Basi
Vs.
State of Punjab

.....Petitioner

.....Respondent

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

Present:- Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner in CRM-M-36188 of 2025.

Mr. Sumit Dua, Advocate for the petitioner
in CRM-M-40711 of 2025.

Mr. Rahul Jindal, AAG, Punjab.

Yashvir Singh Rathor, J. (Oral)

1. This order shall dispose of two petitions titled above, which have been filed under Section 483 BNSS, 2023 for regular bail in case FIR No.50 dated 19.08.2024 registered under Sections 25 of Arms Act, 1959 and Sections 61(2), 336(3), 338, 340(1), 340(2) of BNS, 2023 and Sections 21, 25, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station SSOC, Amritsar, District (Intelligent Wing), Amritsar, Punjab.



2. As per prosecution case, one Digvijay Singh @ Divvijay Singh Basi (petitioner in CRM-M-40711 of 2025) who had allegedly formed a gang was apprehended on the basis of secret information on 19.08.2024 and at the time of his arrest, one .32 bore pistol and four live cartridges were recovered from his possession. On interrogation, he nominated one Gurpreet Singh (petitioner in CRM-M-36188 of 2025) who allegedly prepared fake passports and documents. Thereafter, Gurpreet Singh was arrested on 26.08.2024 and small amount of heroin was recovered from his possession besides two mobile phones. On further interrogation, he led the police party to the rented accommodation and got recovered 1 kg. of heroin which was lying in his car parked outside his house. The contraband was taken into possession. He also got recovered one fake passport in the name of Digvijay Singh (petitioner in CRM-M-40711 of 2025). After completion of investigation, final report was presented.

3. Upon notice, learned State Counsel has appeared and I have heard learned counsel for the parties and have perused the record.

4. Learned counsel for the petitioner – Digvijay Singh contended that petitioner – Digvijay Singh is in custody since 19.08.2024. Only one pistol and four live cartridges have been recovered from his possession. The trial will take sufficiently long time to conclude and till date, only 02 witnesses have been examined out of 24 witnesses cited by the prosecution and in view of his prolonged incarceration, he may be released on bail.

5. Learned counsel for the petitioner – Gurpreet Singh argued that the petitioner – Gurpreet Singh has been falsely implicated in the case. He was



nominated as an accomplice by co-accused Digvijay Singh and thereafter, false recovery of 1 kg. of heroin has been fastened upon him. Petitioner is in custody since 26.08.2024. Challan has already been presented. Only 02 witnesses out of 24 witnesses have been examined till date. Learned counsel further contended that in view of his long incarceration, petitioner is entitled to be released on bail, as prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and the conditional liberty must override the statutory embargo created under Section 37 of the NDPS Act. In support of his contention, learned counsel has relied upon judgments passed in CRM-M-21794 of 2023 – **Sandeep Singh v. State of Punjab** decided on 05.05.2023, CRR-1785 of 2018 (O&M)- **Vicky Kaur v. State of Punjab**, decided on 13.08.2018, CRM-M-14029 of 2018 **Kamlesh v. State of Punjab**, decided on 06.05.2015, CRM-M-17321 of 2025 **Jassu Ram @ Jasuram v. 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 v. The State of West Bengal**, judgment of Hon'ble Supreme Court passed in Criminal Appeal No.4883/2025 - **Santosh Pawar Vs. State of Chhattisgarh & Anr.** decided on 14.11.2025 and (2022) 10 SCC 52, **Satender Kumar Antil Vs. Central Bureau of Investigation.**

7. On the other hand, learned State Counsel has opposed the bail and argued that the petitioners have committed a heinous crime as petitioner – Gupreet Singh 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.

8. Hon'ble Supreme Court in 2023 Live Law (SC) 533, **Rabi Prakash v. 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 v. State of Madhya Pradesh** 2023 AIR(SC) 1648, **Mohammad Muslim alias Hussain v. 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 coordinate Bench of this Court has also held so in judgment reported as Law Finder Doc Id #2770222 **Garpawandeep Singh alias Bihari v. 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 in Special Leave to Appeal (Criminal) No.12788/2023 titled **Nandalal Mondal alias Abhay Mondal v. 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 found in possession of 10,000 ml of codeine phosphate - a cough syrup which falls within the commercial quantity. Hon'ble Supreme Court in Criminal Appeal No.4883/2025 titled **Santosh Pawar Vs. State of Chhattisgarh & Anr. (supra)**, has held that appellant who was being prosecuted for being in possession of commercial quantity of narcotic substance was entitled for bail in view of her incarceration for a period of 19 months. In **Satender Kumar Antil's case (supra)**, prolonged incarceration and inordinate delay engaged the attention of the Hon'ble Supreme Court of India, which considered the correct approach towards bail, with respect to several enactments, including Section 37 of NDPS Act. The Court expressed the opinion that Section 436A of Criminal Procedure Code, 1973 (which requires inter alia the accused to be enlarged on bail if the trial is not concluded within specified periods) would apply.

9. In the present case also, petitioner- Digvijay Singh was found in possession of one pistol and four live cartridges and petitioner – Gurpreet Singh was found in possession of 1 kg. of heroin which falls within commercial quantity. Petitioner – Digvijay Singh is in custody since 19.08.2024 and petitioner – Gurpreet Singh is in custody since 26.08.2024 and after completion of investigation, challan has already been presented but the trial has not been concluded till date and there is also no likelihood of the same being concluded soon. As such, the conditional liberty must override the statutory embargo created under Section 37 of the NDPS Act and grant of bail on the ground of undue delay in trial cannot be said to be fettered by Section 37 of the NDPS Act. 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 petitioners in custody and resultantly, the present petitions are allowed and the petitioners are ordered to be released on bail on furnishing bail bonds and surety bonds 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, petitioners shall remain bound by the following conditions:-

- (i) Petitioners shall not misuse the concession of bail granted to them.
- (ii) Petitioners shall not tamper with any evidence, oral or documentary during the trial.
- (iii) Petitioners shall regularly appear before the trial Court and they will not commit any offence of similar nature while on bail.
- (iv) Petitioners shall deposit their passports, if any, with the trial Court.
- (v) Petitioners shall not in any manner delay the trial.

10. 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.

11. A photocopy of this order be placed on the file of connected case.

(Yashvir Singh Rathor)
Judge

December 05, 2025
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No