



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

220

**CRM-M-39033-2025
Date of decision: 29.10.2025**

MUKHTIAR SINGH

....Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

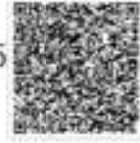
CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Kamal Narula, Advocate for the petitioner.

Mr. Gorav Kathuria, DAG Punjab.

YASHVIR SINGH RATHOR. J.(Oral)

1. This is the first 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 (c) and later on added Section 29 of NDPS Act, registered at Police Station Special Task Force, Phase-4, Mohali.
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 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 (petitioner) 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 (Petitioner) and Harmesh Singh were apprehended and 1.5 kg of heroin was recovered from the car. Thereafter, they were arrested on 16.09.2023. Said Harmesh Singh disclosed that the recovered contraband was given to them by his brother-in-law Sukhwinder Singh @ Jagdish Singh @ Deesha and thereafter, Sukhwinder Singh @ Jagdish Singh @ Deesha 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.

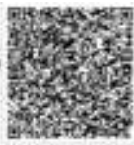
4. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. He is in custody since 16.09.2023 and after completion of investigation, challan has been presented. Learned counsel further contended that prolonged incarceration and undue delay in 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 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 1.5 kg of heroin, which falls under commercial quantity. Petitioner is in custody since 16.09.2023 and out of total 24 witnesses cited by the prosecution, only 09 witnesses have been examined till date. The 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.

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.

(YASHVIR SINGH RATHOR)
JUDGE

29.10.2025

Priyanka Thakur

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