



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-39947-2025
Date of decision: 10.12.2025

LAKHVIR SINGH ALIAS LAKHVEER SINGH ALIAS KHIRI

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. S.S. Kaith, Legal Aid counsel for the petitioner.

Mr. Gorav Kathuria, DAG Punjab.

YASHVIR SINGH RATHOR. J.(Oral)

CRM-49760-2025

1. Present application under Section 528 of BNSS, 2023 has been filed for placing on record the order dated 16.09.2025 passed by this Court (Annexure P-5).

2. For the reasons mentioned in the application, the same is allowed. Annexure P-5 is taken on record subject to all just exceptions.

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3. This is the first application under Section 483 of BNSS, 2023 for grant of regular bail in case FIR No.92, dated 21.06.2024 registered at Police Station Sadar Kotkapura, District Faridkot, under Sections 21, 22 NDPS Act (Section 29 of NDPS Act, Sections 42 and 52-A of Prisons Act and under Section 188 of IPC (under Section 223 BNS) were added subsequently).

4. Learned counsel for the petitioner as well as learned State counsel



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have been heard and material collected by the police during investigation has been perused.

5. Brief facts of the prosecution case are that on 21.06.2024 at about 1.50 PM, ASI Chamkur Singh alongwith other police officials was present near Dera Radha Swami, Faridkot, when he received a secret information to the effect that Gurpreet Singh @ Gunni and Lakhnveer Singh @ Kheeri (petitioner) indulge in supply of zarda, beeri/cigarettes, heroin, intoxicating capsules, intoxicating tablets and mobile phones to Modern Central Jail, Faridkot by wrapping them in tape and they throw the same inside the jail from outside during the dark hours. Today, they are present in their agriculture fields on the tracks towards Jalaleana Village on Kotkapura, Faridkot Highway alongwith the contraband and mobile phones and in case, raid is conducted, they can be apprehended alongwith huge quantity of contraband. The information was found to be reliable and ruqa was sent to the police station for registration of FIR. Thereafter, the police party reached the disclosed place and a raid was conducted from where Gurpreet Singh @ Gunni and Lakhnveer Singh @ Kheeri were apprehended with 15 grams of heroin, 350 loose intoxicating capsules of red colour without strips, 700 loose intoxicating tablets without strips, 5 mobile phones make Hero, 2 mobile phones make Nokia without SIM, one mobile phone make Jio without SIM, 143 packets of zarda, 188 bundles of beeries, 5 tape rolls of yellow colour and one motorcycle bearing registration No.PB-04X-6148 which were taken into possession. On interrogation, they disclosed that they were acquainted with one in jail namely Saudagar Singh Fauji and Gaurav and they remain in touch with him telephonically and supply narcotics and other material to said Saudagar Singh



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Fauji by throwing the same across the wall of the jail at their instance. Thereafter, accused Saudagar Singh Fauji as well as other accused Gaurav were arrested and after completion of investigation, final report under Section 173 Cr.P.C. has been presented.

6. Learned counsel for the petitioner contended that the petitioner has been falsely implicated. Co-accused namely Gurpreet Singh @ Gunni and Saudagar Singh @ Mani Fauji, who are similarly situated have already been released on bail by this Court, vide order dated 16.09.2025. Learned counsel next contended that the petitioner is in custody since 21.06.2024 and after completion of investigation, challan has been presented. Thereafter, charge has been framed and out of 57 witnesses cited by the prosecution, only one witness has been examined till date and conclusion of the trial is likely to take a long time. 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 for the petitioner 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 petitioner is a habitual offender and he is involved in 05 more cases. In view of his past conduct, he is not entitled to be released on 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 co-ordinate 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



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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 was found in possession of 15 grams of heroin and 303 grams of tramadol hydrochloride. Petitioner is in custody since 21.06.2024 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. Co-accused namely Gurpreet Singh @ Gunni and Saudagar Singh @ Mani Fauji, who are similarly situated have already been



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released on bail by this Court, vide order dated 16.09.2025. Moreover, involvement of petitioner in other cases cannot be made a ground to decline the bail in the present case, in view of the ratio of law laid down by Hon’ble Supreme Court in 2012(2) SCC 382, **Prabhakar Tiwari Vs. State of UP and Anr.** and 2020(1) RCR (Criminal) 831, **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others.** 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.

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.

10.12.2025
amandeep

(YASHVIR SINGH RATHOR)
JUDGE

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