



221 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-45865-2025
Date of decision: 25.09.2025

KULDEEP KUMAR ALIAS KULDEEP SINGH

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Sandeep Kumar Passi, Advocate and
 Mr. Harmilonjot, Advocate for the petitioner.

Mr. Rahul Jindal, AAG, Punjab.

YASHVIR SINGH RATHOR, J. (Oral)

1. Prayer in the third petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case having FIR No.178 dated 08.09.2023 registered under Sections 22 of NDPS Act (Section 29 of NDPS Act added later on) at Police Station Guru Harsahai, District Ferozepur, Punjab.

2. Learned counsel for the petitioner as well as learned State counsel have been heard and material collected by the police during investigation has been perused.

3. Brief facts of the prosecution case are that on 08.09.2023, Inspector Jaswinder Singh was on patrolling duty along with other police officials and when the police party reached near Vishwkarma Chowk Guru Harsahai, they received a secret information to the effect that Kuldeep Kumar @ Kuldeep Singh (petitioner) has brought intoxicating tablets from outside to sell the same in Guru Harsahai. Today, he will be coming from



Village Dilla Ram to Guru Harsahai to sell the intoxicant tablets and he can be apprehended. Thereafter, Barricade was installed and after sometime, petitioner was apprehended and 1250 tablets of Etizolam weighing 162.5 grams were recovered from his possession. Thereafter, petitioner was arrested and contraband was seized. After completion of usual investigation, final report was presented against the accused 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 08.09.2023 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 Etizolam 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 1250 tablets of Etizolam, which falls under commercial quantity. Petitioner is in custody since 08.09.2023 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.

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

25.09.2025

Priyanka Thakur

Whether speaking/reasoned :
Whether Reportable :

Yes/No
Yes/No