



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

CRM-M-52407-2023
Date of decision: 16.01.2025

Rohit ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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

Mr. Inderjeet Singh Ladher, DAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in case having FIR No.13 dated 14.01.2023, under Sections 21, 29 of NDPS Act, registered at Police Station Sadar Ferozepur, District Ferozepur.
2. The allegations in nutshell are that the police recovered 357 grams of heroin from petitioner on 14.01.2023.
3. The counsel for the petitioner inter alia submits that the petitioner is falsely implicated in the present case and no such contraband was recovered from the petitioner. It is further submitted that the petitioner is in custody for the last more than 2 years and is having no criminal history under NDPS Act. It is further submitted that the trial is going on at very slow pace and it will take time for the trial to conclude. That in the given circumstances, further detention of the petitioner in judicial custody is not going to serve any purpose. In support of his contentions, counsel for the



petitioner has referred to decision of Hon'ble Supreme Court in Special Leave to Appeal (Crl.) Nos.12788/2023 titled ***Nandalal Mondal @ Abhay Mondal Vs. State of West Bengal***, decided on 03.01.2024, wherein the accused who was found in possession of commercial quantity of contraband was granted bail on the ground that the petitioner was in custody for the last more than one and a half years and having no criminal antecedents and the conclusion of trial was to take considerable time.

4. Short reply by way of an affidavit of Sukhwinder Singh, Deputy Superintendent of Police (City) Ferozepur filed on behalf of the State is taken on record along with Annexure R-1.

5. The State counsel while resisting the present petition submits that the recovery effected from the present petitioner is covered under the rigors of Section 37 of NDPS Act. It is further submitted that the trial is going on and prosecution has already examined 3 witnesses out of total 12 witnesses. However, the State counsel has not disputed the fact that the petitioner is incarcerated for last 2 years and he is having no criminal antecedents under NDPS Act.

6. I have considered the submissions made by counsel for the parties.

7. The recovery of 357 grams of heroin comes under commercial quantity and thus, stringent provision of Section 37 NDPS Act are applicable to the case of petitioner. However, at the same time, the Hon'ble Supreme Court has repeatedly reiterated that right to speedy trial is enshrined in Article 21 of the Constitution of India. In the instant case, the petitioner is behind bars for the last two years and it will take time for the



trial to terminate. In the given circumstances, as the petitioner is not responsible for any such delay in trial, the long incarceration for a period of 2 years is enough to dilute the rigors of Section 37 NDPS Act and petitioner can be granted bail, keeping in mind the right to a speedy trial as envisaged under Article 21 of the Constitution of India.

8. In light of the above discussion coupled with the decision given by the Hon'ble Supreme Court in *Nandalal Mondal @ Abhay Mondal's case (supra)*, further detention of the petitioner in judicial custody would not serve the cause of substantial justice.

9. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

10. However, it is made clear that any observation made herein above is not to be construed as an expression of opinion on the merits of the case.

16.01.2025

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No