



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

222

CRM-M-48268-2025 (O&M)

Decided on : 03.12.2025

GAURAV

... PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

PRESENT: Mr. K.S. Lakhanpal, Advocate for the petitioner.

Mr. Gorav Kathuria, DAG Punjab.

YASHVIR SINGH RATHOR, J. (Oral)

1. Present second petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed for grant of regular bail to the petitioner in case FIR No.0035 dated 19.02.2024, under Sections 22 of NDPS Act (Section 29 of the NDPS Act added later on), registered at Police Station Model Town, Hoshiarpur, Tehsil and District Hoshiarpur.

2. I have heard learned counsel for the petitioner and learned State counsel and have gone through the record.

3. Brief facts of the prosecution case are that on 19.02.2024, Police party headed by ASI Sukhwinder Singh, CIA Staff, Hoshiarpur, was on patrolling duty and present at Prabhat Chowk, Hoshiarpur, when he received a secret information to the effect that two persons would be coming on a motorcycle, which is not bearing any number plate and are carrying drugs with them. Thereafter, a barrier was installed and after some time, two persons were seen coming. The driver of the motorcycle handed over an envelope to the pillion rider and then tried to start the motorcycle but they



were apprehended. The motorcyclist disclosed his name as Aman Sharma while the pillion rider disclosed his name as Gaurav (petitioner). A total of 720 intoxicant capsules of Tramadol, weighing 421.92 grams along with a sum of Rs.2,00,000/- were recovered from their possession and taken into custody by the police. Petitioner was arrested and after completion of usual investigation, final report was presented in the Court for trial.

4. Learned counsel for the petitioner has argued that the petitioner is in custody since 19.02.2024. The challan has been presented on 10.07.2024. The trial is likely to take some more time to conclude. 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 for the petitioner 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 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.**

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 Tramadol along with drug money of Rs.2,00,000/- 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. 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 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.

7. In the present case also, petitioner was found in possession of 720 intoxicant capsules of Tramadol, weighing 421.92 grams, which falls within commercial quantity along with a sum of Rs.2,00,000/- stated to be drug money. Petitioner is in custody since 19.02.2024 and after completion of investigation, challan has already been presented but the same 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 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.

8. 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

03.12.2025

Vishal Vardhan

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No