



CRM-M-48587-2025

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

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**CRM-M-48587-2025
Date of decision: 05.09.2025**

DEVI LAL

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Abhaysher Singh, Advocate
for the petitioner.

Mr. Gorav Kathuria, DAG Punjab.

YASHVIR SINGH RATHOR. J.(Oral)

1. This is the third petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case FIR No.164 dated 17.11.2021, under Sections 15 (c), 29 of NDPS Act, registered at Police Station Khuian Sarwar, District Fazilka, Punjab.
2. Brief facts of the prosecution case are that on 17.11.2021, petitioner was apprehended and 160 kg of poppy husk was recovered from his possession, being carried in a canter. After completion of usual investigation, final report was submitted and petitioner is facing trial.
3. 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.



4. Learned counsel for the petitioner contended that petitioner is in custody since 17.11.2021. Challan was presented after completion of investigation on 12.05.2022, charges were framed on 13.09.2023 and out of total 15 witnesses cited by the prosecution, 04 witnesses still remain to be examined. Learned counsel for the petitioner further contended that in view of the long incarceration, petitioner may be released on bail. In support of his contention, learned counsel for the petitioner has relied upon 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 poppy husk 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 prosecution case, petitioner was found to be in possession of 160 kg of poppy husk. Petitioner is in custody since 17.11.2021 and 04 witnesses still remain to be examined out of 15 witnesses cited by the prosecution 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 Odhisha** 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. Honb'ble Surpeme Court in 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 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.

7. Therefore, taking into consideration the fact petitioner is in custody since 17.11.2021 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



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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

05.09.2025
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No