



CRM-M-49497-2025

1

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

CRM-M-49497-2025

Date of Decision: 03.12.2025

BALWINDER SINGH @ BOHRA

..... 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 second application under Section 483 of BNSS, 2023 for grant of regular bail in case FIR No. 107 dated 13.07.2024, under Section 21 of NDPS Act (Section 23/29 of NDPS Act added later on), registered at Police Station City Jalalabad, District Fazilka, Punjab.
2. Status report by way of an affidavit Gursewak Singh, PPS, Deputy Superintendent of Police, Sub Division Jalalabad filed on behalf of the respondent-State is taken on record. Registry is directed to tag the same at an appropriate place.
3. Brief facts of the prosecution case are that on 13.07.2024 police party headed by ASI Balkar Singh of STF Ferozepur Range was on patrolling duty when, at about 2PM, near PS Sadar Jalalabad on Ferozepur-Fazilka Road when they received secret information that present petitioner- Balwinder Singh @ Bohra and co-accused Baljeet Singh @ Kaka were having huge quantity of heroin with them and could be apprehended. Thereafter, police party apprehended three persons riding on a motorcycle, including present petitioner- Balwinder Singh @ Bohra alongwith co-accused Baljeet Singh @ Kaka and Ashok Singh @



Goshi. Recovery of 1kg of heroin contained in a polythene held by Baljeet Singh @ Kaka was effected and they were arrested. Upon interrogation, accused Baljeet Singh @ Kaka suffered disclosure statement on 15.07.2024, as per which, he got recovered another 1kg 600 grams of heroin.

4. I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

5. Learned counsel for the petitioner contended that the petitioner has been falsely implicated. Learned counsel next contended that the petitioner is in custody since 13.07.2024 and after completion of investigation, challan has been presented. However, the case is still at the stage of framing of charge 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.**

6. 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 1kg of heroin (commercial quantity) and in view of rigors contained in statutory provision of Section 37 of NDPS Act, he is not entitled to the benefit of bail.

7. 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.

8. In the present case also, petitioner alongwith co-accused was found in possession of 1 kg of heroin which falls within commercial quantity. Petitioner is in custody since 13.07.2024 and after completion of investigation, challan has already been presented. However, the case is still at the stage of framing of charge and conclusion of the trial is likely to take a long time. 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.

9. 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
Ali

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No