



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

**CRM-M-52354-2025
Date of decision: 22.09.2025**

KAMAL

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Manvinder Sidhu, Advocate
 for the petitioner.

Ms. Vasundhara Dalal Anand, Sr. DAG, Haryana.

YASHVIR SINGH RATHOR, J. (Oral)

1. Prayer in the present petition is for grant of regular bail to the petitioner in case having FIR No.401 dated 28.09.2024 registered under Sections 15-C of NDPS Act at Police Station Sirsa Sadar, District Sirsa.

2. 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.

3. Brief facts of the prosecution case are that on 28.09.2024, SI Sandeep Kumar was present at bus-stand of village Nejadela Kalan along with other police officials when he received a secret information to the effect that Kamal (petitioner) and Karan indulge in the sale of poppy husk and they have kept concealed huge quantity of poppy husk in a vacant plot under the bushes in the area of village Jano Sahib and they are



planning to sell the same. In case, a raid is conducted they can be apprehended. Information was found to be reliable and intimation under Section 42 of the NDPS Act was sent to Senior police officers and thereafter, police party reached at the said place where both the accused were apprehended while they were taking out the bags from the bushes. On checking, the bags were found to be containing 51 Kg 960 grams of poppy husk and same was converted into parcels & sealed and taken into possession. After completion of investigation, challan was presented and accused are facing trial.

4. Learned counsel for the petitioner argued that petitioner has been falsely implicated in the present case. The contraband recovered is marginally above the non-commercial/intermediate quantity, as the poppy husk up to 50 kgs falls within the non-commercial quantity. Learned counsel for the petitioner next argued that petitioner is in custody since 28.09.2024. After completion of investigation, challan has been presented and charge has been framed but not a single prosecution witness has been examined till date out of 13 witnesses cited by the prosecution and in view of his long incarceration he is entitled to 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 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 allegations, petitioner alongwith co-accused Karan was found to be in possession of 51 kg 960 grams of poppy husk, which is marginally above the commercial quantity. Petitioner is in custody since 28.09.2024 and none of the witnesses has been examined till date 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. In CRM-M-37827/2022, titled **Parkash Sahu Vs. State of Punjab** decided vide judgment dated 14.12.2002, a co-ordinate Bench of this Court also granted bail on the ground of delayed trial in which 02 kg. 600 grams of opium was recovered which was marginally above the commercial quantity of 02 kg 500 grams. Moreover, co-accused Karan, whose case is identical to that of petitioner has already been released on bail vide order dated 05.09.2025 and petitioner too is thus, entitled to be released on bail on the ground of parity.

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.

22.09.2025
Priyanka Thakur

(YASHVIR SINGH RATHOR)
JUDGE

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