



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

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**CRM-M-53272-2025
Date of decision: 25.09.2025**

KALA SINGH

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. P.S. Ahluwalia, Advocate for the petitioner.

Mr. Rahul Jindal, AAG, Punjab.

YASHVIR SINGH RATHOR. J.(Oral)

1. Present 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.28 dated 17.05.2022, under Sections 21, 29 and 31 of NDPS Act, and Section 25 of the Arms Act, registered at Police Station Ghagga, District Patiala.
2. Brief facts of the prosecution case are that on 17.05.2022, Inspector Ajay Kumar along with other police officials was present at bus stand, Ghagga, when he received a phone call from one Mithu Ram, Sarpanch, village Dodhna that there was a water canal in their Village towards Village Buta Singh Wala and the same was being cleaned and in the meantime, Jarnail Singh, who was working under MNREGA scheme told that a bag is lying in the fields on the other side of the canal, in which a pistol and few packets wrapped in cello tape are lying and he asked him to reach the spot. Thereafter, the police party reached the spot and 08 packets were found lying in the said bag along with one pistol and live rounds. On checking, the contraband was found to be heroin, weighing about 8 kg 270 grams



along with 01 pistol and 33 live rounds. The same were converted into separate parcels and sealed and taken into possession and a formal FIR was registered. Further case of the prosecution is that one accused namely Amrik Singh, was arrested in some other case at Hoshiarpur, wherein, he suffered a disclosure statement to the effect that the contraband in this case was owned by him and thereafter, he was arrested in the present case on 20.06.2022. He was initially remanded to police custody and during his second remand, he suffered disclosure statement dated 26.06.2022, to the effect that he had taken the contraband and one pistol on loan from the present petitioner namely Kala Singh. Thereafter, efforts were made to arrest him but he could not be arrested and was declared a proclaimed offender on 20.08.2024. Thereafter, the petitioner was arrested on 13.09.2024 and after completion of investigation, challan was presented for 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 the petitioner has been falsely implicated. The only evidence against the petitioner is the disclosure statement suffered by co-accused Amrik Singh, which is not an admissible evidence and there is no other evidence against him, except the disclosure statement of co-accused. There is no evidence of call details or money transaction between both of them. Learned counsel next contended that the petitioner is in custody since 13.09.2024 and after completion of investigation, challan has been presented. Thereafter, charge has been framed on 01.05.2025 and out of 36 witnesses cited by the prosecution, not a single witness has been examined till date. 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 Vs. The State of West Bengal**.

5. On the other hand, learned State Counsel has opposed the bail and argued that huge quantity of contraband has been recovered, which falls within the commercial quantity and rigors of Section 37 of NDPS Act are attracted, which bar grant of bail, unless twin conditions prescribed in the said provision are satisfied. However, in view of the huge recovery, it cannot be presumed that petitioner is not guilty of the offence or that he is not likely to commit the offence, in case he is released on bail. Learned counsel contended that the bail application be dismissed.

6. No contraband has been recovered from the possession of the petitioner. As to how much evidentiary value will be attached to the disclosure statement of co-accused will be subject matter of trial. Petitioner is in custody since 13.09.2024 and not a single witness has been examined till date, out of 36



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. 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 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 also 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 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.

25.09.2025
amandeep

(YASHVIR SINGH RATHOR)
JUDGE

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