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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59343-2025

Date of Decision: 11.11.2025

NISHAN SINGH

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Arshdeep Singh Brar, Advocate
for the petitioner.

Mr. Rahul Jindal, AAG, Punjab.

YASHVIR SINGH RATHOR, J. (Oral)

1. This is the first petition under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case FIR No.69 dated 01.12.2024 registered at Police Station Fatehgarh Panjtoor, District Moga, under Section 15 of NDPS Act (Section 29 of the NDPS Act added later on).

2. Upon notice, learned State counsel has appeared. Both the parties have been heard and material collected by the police during investigation has been perused.

3. Brief facts of the prosecution case are that on 01.12.2024, police party headed by SHO-Sunita Rani was on patrolling duty in connection with detection of crime and when the police party reached at Grain Market Lalehandi, they received secret information that Veer Singh and Nishan Singh (present petitioner) are present in their house at



Maradpur. If a raid is conducted and they are interrogated, huge quantity of poppy husk may be recovered. Thereafter, raid was conducted at the disclosed place and accused were apprehended and Nishan Singh (present petitioner) suffered disclosure statement and got recovered 2 bags of poppy husk (each weighing 26 kg) total 52 kg of poppy husk. Co-accused Veer Singh also suffered disclosure statement that his brother Nishan Singh (present petitioner) supplies him with poppy husk which he sells in the villages.

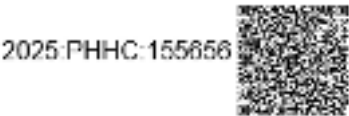
4. Learned counsel for the petitioner has argued that the petitioner is in custody since 01.12.2024. The alleged recovery of 52 kg of poppy husk is marginally above the non-commercial quantity of 50 kgs. Challan has been filed, after completion of investigation. The trial is likely to take some more 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.

5. 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.***

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 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.

7. As per allegations, petitioner was found to be in possession 52 kg of poppy husk which is marginally above the non-commercial quantity. Petitioner is in custody since 01.12.2024 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. Honb’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.

8. 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.

9. Pending misc. application(s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

11.11.2025
Ali

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