



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

226

CRM-M-60505-2025
Decided on : 03.12.2025

MUZAFFAR AHMED MIR

... Petitioner

Versus

UNION OF INDIA

... Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

PRESENT: Mr. S.S. Kamboj, Advocate for the petitioner.

Mr. Sourabh Goel, Special Public Prosecutor with
Ms. Samridhi Jain, Advocate, Ms. Deify Jindal, Advocate,
Ms. Geetika Sharma, Advocate and
Ms. Anju Bansal, Advocate.

YASHVIR SINGH RATHOR. J.(Oral)

1. Present petition under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed for grant of regular bail to the petitioner in case FIR No.31 dated 26.06.2019, under Sections 8, 15, 25, 27-A, 29, 60, and 62 of NDPS Act, 1985, registered at Police Station Tanda, Hoshiarpur.

2. Brief facts of the prosecution case are that on 26.06.2019, special information was received by Sh. Arnab Chakaborty, Intelligence Officer, NCB from a reliable source that two Kashmiri persons namely Muzaffar Ahmad Mir and Riyaz Ahmed Sheikh are coming in Tata truck bearing No. JK13P7759 from the side of Jammu & Kashmir to Punjab to deliver huge quantity of *poppy straw* which is to be delivered at Mukerian near Aman Marriage Palace to a personal namely Charanjit Singh Cheema. The *poppy straw* is concealed in the cargo of the truck among other loading and in case truck is checked, huge quantity of contraband can be recovered.



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After following due formalities, a raid was conducted and the truck was apprehended from which 500 kg of *poppy straw* was recovered. The truck was being driven by Muzaffar Ahmad Mir while Riyaz Ahmed Sheikh was the cleaner and Charanjit Singh Cheema was apprehended from the spot while taking the delivery. The accused was arrested and after completion of the usual investigation final report was presented.

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

4. Learned counsel for the petitioner contended that the petitioner is in custody since 26.06.2019. The challan was presented in due course but till date, trial has not been concluded as one of the co-accused namely Riyaz Ahmed Sheikh has absconded. Earlier, petitioner had moved an application for bail which was rejected vide order dated 13.09.2023 but a direction was issued to the trial Court to conclude the trial expeditiously preferably within six months and thereafter, time was extended by another six months but till date, the presence of Riyaz Ahmed Sheikh has not been secured and the trial is lingering on. Only 8 out of 12 witnesses cited by the prosecution have been examined till date. The trial is not likely to be concluded soon and 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.**

5. On the other hand, learned Special Public Prosecutor has opposed the bail and argued that the petitioner has committed a heinous offence as he was found in possession of 500 kg of *poppy straw* (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.

6. 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.

7. In the present case also, petitioner was found in possession of 500 kg of *poppy straw* which falls within commercial quantity. Petitioner is in custody since 26.06.2019 and after completion of investigation, challan has already been presented but the same has not been concluded till date and there is also no



likelihood of the same being concluded soon. 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.

8. 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
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No