



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

CRM-M-1372-2025 (O&M)

Date of decision: 17.01.2025

Sunny

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Vivek Dahiya, Advocate for the petitioner.

Mr. Inderjeet Singh Ladher, DAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in case having FIR No.161 dated 06.08.2023, under Section 22 of NDPS Act, registered at Police Station Dasuya, District Hoshiarpur.
2. The allegations in nutshell are that the police recovered 13 injections of Buprenorphine from petitioner on 06.08.2023.
3. The counsel for the petitioner *inter alia* submits that the petitioner is falsely implicated in the present case and no such contraband was recovered from the petitioner. It is further submitted that the petitioner is in custody for the last 1 year and 5 months and is having no criminal history under NDPS Act. It is further submitted that the trial has not commenced after the framing of charges and it will take time for the trial to conclude. Further, detention of the petitioner in judicial custody is not going to serve any purpose. In support of his contentions, counsel for the



petitioner has referred to decision of Hon'ble Supreme Court in Special Leave to Appeal (Crl.) Nos.12788/2023 titled ***Nandalal Mondal @ Abhay Mondal Vs. State of West Bengal***, decided on 03.01.2024, wherein the accused who was found in possession of commercial quantity of contraband was granted bail on the ground that the petitioner was in custody for the last more than one and a half years and having no criminal antecedents and the conclusion of trial was to take considerable time.

4. The State counsel while opposing the present petition submits that the recovery effected from the present petitioner is covered under the rigors of Section 37 of NDPS Act. It is further submitted that after framing of charges, the trial has commenced but till date no prosecution witness is examined. However, the State counsel has not disputed the fact that the petitioner is incarcerated for last 1 year and 5 months and he is having no criminal antecedents under NDPS Act.

5. I have considered the submissions made by counsel for the parties.

6. The recovery of 13 injections of Buprenorphine comes under commercial quantity and thus, stringent provisions of Section 37 NDPS Act are applicable to the present case. Till date, no witness is examined on behalf of prosecution out of total 9 witnesses. Thus, it is clear that trial is not progressing ahead, after the framing of issues and the petitioner is behind bars for the last more than 1 year and 5 months and he is not responsible for delay in the trial. The petitioner cannot be left to languish in jail for an indefinite period during the pendency of a trial for reasons not attributable to him. The right to life and personal liberty granted by the



Constitution of India also covers the right to speedy trial. In the given circumstances, as the petitioner is not responsible for any such delay in trial, the long incarceration for a period of 1 year and 5 months is enough to dilute the rigors of Section 37 NDPS Act and petitioner can be granted bail, keeping in mind the right to a speedy trial as envisaged under Article 21 of the Constitution of India.

7. In light of the above discussion coupled with the decision given by the Hon'ble Supreme Court in *Nandalal Mondal @ Abhay Mondal's case (supra)*, further detention of the petitioner in judicial custody would not serve the cause of substantial justice.

8. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9. However, it is made clear that any observation made herein above is not to be construed as an expression of opinion on the merits of the case.

17.01.2025

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**