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CRM-M-61408-2025

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

CRM-M-61408-2025

Date of decision: 01.12.2025

MAHESH KUMAR ALIAS SHUBHAM ALIAS MATHI

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. Prince Sharma, Advocate
for the petitioner.

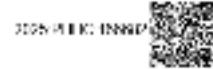
Mr. Amrit Pal Singh Gill, DAG Punjab.

.....

RUPINDERJIT CHAHAL, J. (ORAL)

1. Prayer in the instant petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is for grant of regular bail or interim bail till receipt of FSL report to the petitioner in case FIR No.187 dated 11.08.2025 registered under Sections 21, 27(A), 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Jandiala, District Amritsar (Rural).

2. Brief facts of the present case are that as per the prosecution, S.I. Naresh Kumar, along with his fellow police officials was on patrolling duty and on suspicion, they apprehended the petitioner along with co-accused namely Vishal Kumar alias Kalu who were found in conscious possession of 33 grams of heroin, drug money of Rs.3600/- and an electronic weighing scale.

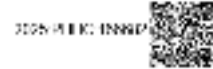


3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and he has no concern with the said offence. He further contends that mandatory provisions of the NDPS Act were not complied with at the time of alleged search and seizure. He argued that recovery of alleged contraband has already been effected from the petitioner and nothing more is to be recovered from him. He further argued that, as per the prosecution version, 33 grams of heroin has been recovered from the petitioner, but the Forensic Science Laboratory (FSL) report has not been received so far. He further submits that the petitioner is in custody since 11.08.2025 and at this stage, learned counsel confines his prayer only for releasing the petitioner on interim bail till the receipt of FSL report. In this regard, learned counsel has placed reliance upon a dicta of a judgment of a Division Bench of this Court passed in '***Inderjeet Singh @ Laddi and others v. State of Punjab***', 2014 (3) RCR (Criminal) 953. It has also been argued that the petitioner has clean antecedents and is not involved in any other case.

4. Learned State counsel, has filed the status report as well as the custody certificate of the petitioner, which are taken on record. He has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature and he was apprehended at the spot with the recovery of alleged contraband, for which FSL report is still awaited. He further submits that the petitioner is involved in multiple cases meaning thereby he is a habitual offender.

5. Having heard learned counsel for the parties at length and

after perusing the record of the case, it is evident that the petitioner is in



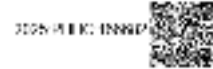
custody for the last more than 03 months, investigation is underway, FSL report is still awaited which is crucial to determine the applicability of stringent provisions of NDPS Act including commercial quantity threshold and the bar under Section 37 of the NDPS Act. Keeping the petitioner in further detention till receiving the report of FSL would be violative of his rights under Article 21 of the Constitution of India.

6. A Division Bench of this Court in ***Inderjeet Singh @ Laddi and others v. State of Punjab, 2014 (3) RCR (Criminal) 953***, has held as under:

"5. The learned Single Judge after considering the rival contentions found that the question whether such substances/drugs are covered under the NDPS Act or not, or can be dealt with only under the D&C Act has been arising frequently in many cases. The consequences would be completely different if the substances were held to be within the purview of the D&C Act instead of the NDPS Act. The matter was, therefore, referred to a larger bench. Meanwhile, the petitioner was ordered to be released on interim bail to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate, Ludhiana.

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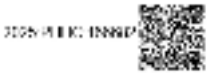
*53. Indeed the delay in testing the sample does result in prejudice to an alleged offender as till the results are available there can be no definite certainty with regard to the contraband in respect of which there has been a contravention or that has been recovered. In such cases to await the outcome of the final FSL report where there is likely to be delayed, the accused may be released on interim bail. In ***Sukhwant Singh v. State of Punjab, 2009(4) RCR (Criminal) 868 : (2009) 7****



SCC 539, it has been held by the Hon'ble Supreme Court as follows:

*..... following the decision of this Court in **Kamlendra Pratap Singh v. State of U.P., 2009(3) RCR (Criminal) 401 : 2009(4) Recent Apex Judgments (R.A.J.) 151 : (2009) 4 SCC 437** we reiterate that a court hearing a regular bail application has got inherent power to grant interim bail pending final disposal of the bail application. In our opinion, this is the proper view in view of Article 21 of the Constitution of India which protects the life and liberty of every person. When a person applies for regular bail then the court concerned ordinarily lists that application after a few days so that it can look into the case diary which has to be obtained from the police authorities and in the meantime the applicant has to go to jail. Even if the applicant is released on bail thereafter, his reputation may be tarnished irreparably in society. The reputation of a person is his valuable asset, and is a facet of his right under Article 21 of the Constitution vide **Deepak Bajaj v. State of Maharashtra, 2008(4) RCR (Criminal) 961:2008(6) Recent Apex Judgments (R.A.J.) 357: (2008) 16 SCC 14**. Hence, we are of the opinion that in the power to grant bail there is inherent power in the court concerned to grant interim bail to a person pending final disposal of the bail application. Of course, it is in the discretion of the court concerned to grant interim bail or not but the power is certainly there.*

54. Therefore, the presiding officer of a Special Court dealing with NDPS cases wherever the need is felt and where the matter is being unnecessarily delayed may grant interim bail



till the receipt of the FSL report and thereafter considered the case after the receipt of the report"

7. In view of above, the petitioner is ordered to be released on interim regular bail till the presentation of the FSL report before the concerned Court, subject to his furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate.
8. Upon receipt of report of the Chemical Examiner, if the recovered contraband is found to be falling within commercial quantity, the petitioner shall surrender before the concerned trial Court and if the petitioner fails to surrender before the trial Court, the trial Court would be at liberty to proceed further in accordance with law and the present order shall not be construed as a bar in proceeding as per law.
9. With these observations, the present petition is disposed of.
10. It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

01.12.2025
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(RUPINDERJIT CHAHAL)
JUDGE

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|-----|----------------------------|--------|
| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |