



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

227

CRM-M-61761-2025 (O&M)

Decided on : 03.12.2025

JASWINDER SINGH @ TONY**... PETITIONER****VERSUS****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

PRESENT: Mr. Manu Loona, Advocate for the petitioner.

Mr. Gorav Kathuria, DAG Punjab.

YASHVIR SINGH RATHOR, J. (Oral)

1. Present 3rd 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.0066 dated 19.05.2020, under Section 22, 25 & 29 of NDPS Act, registered at Police Station Arniwala, District Fazilka.
2. Status report dated 24.11.2025, filed by respondent-State is taken on record.
3. I have heard learned counsel for the petitioner and learned State counsel and have gone through the record.
4. Brief facts of the prosecution case are that on 19.05.2020, ASI Harmesh Kumar along with other police officials had intercepted one car bearing No.DL-9-CF-7079. The driver tried to escape but the car was accidentally stopped. The driver and passenger tried to run away but one woman namely Sheelo Bai was apprehended but the driver who escaped was identified by SI Gurmukh Singh as Jaswinder Singh (petitioner). Two more women sitting on the rear seat disclosed their names as Sharanjeet Kaur and Neelam Rani. The car was searched and 800 tablets of Clovidol 100 SR and



200 tablets of Clovidol 100 SR were recovered. Petitioner was arrested on 22.04.2021 and as per report of FSL, the tablets were found to be of Tramadol Hydrochloride, weighing 409.13 mg. which falls within commercial quantity. After completion of investigation, final report was presented in the Court for trial.

5. Learned counsel for the petitioner contended that this is the 3rd bail application. The first bail application was dismissed vide order dated 30.09.2022 (Annexure P3). The second bail application was dismissed vide order dated 29.08.2023 (Annexure P4), which was withdrawn but liberty was granted to move the bail application afresh after the completing the custody of 2 years and 6 months. Learned counsel for the petitioner further contended that now petitioner is in custody for the last more than 4 years, 7 and a half months and trial is likely to take more time to conclude. Learned counsel further contended that 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.**

6. On the other hand, learned State Counsel has opposed the bail and argued that the petitioner has committed a heinous crime and he is involved in 6 more cases out of which 2 come under NDPS Act and remaining are of Excise Act. Since, he is a habitual offender, he is not entitled to bail.

7. 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.

8. In the present case, 800 tablets of Clovidol 100 SR and 200 tablets of Clovidol 100 SR were recovered, weighing 410 grams, which falls within commercial quantity. Petitioner is in custody since 22.04.2021. Trial is likely to take sufficiently long time to conclude and further detention of the petitioner is, thus, not required. 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. Moreover, involvement of petitioner in other cases cannot be a ground to decline the bail in the present case, in view of the ratio of law laid down by Hon'ble Supreme Court in 2012(2) SCC 382, **Prabhakar Tiwari Vs. State of UP and Anr.**

9. 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.

10. 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

Vishal Vardhan

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No