



214 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-62883-2025
Date of decision: 14.11.2025

SURESH KUMAR

....Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Kuldeep Singh Siwach, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, DAG, Haryana
assisted by ASI Rakesh Kumar.

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.268 dated 07.09.2022 registered at Police Station Sadar Ratia, District Fatehabad under Sections 20(C) and 29 of NDPS Act and Section 201 of IPC.
2. Learned counsel for the petitioner as well as learned State counsel have been heard and material placed on the file has been perused.
3. Brief facts of the prosecution case are that on 07.09.2022, ASI Richhpal Singh received a secret information that Surajbhan alongwith co-accused Sachin @ Shishan and petitioner-Suresh Kumar is involved in the sale of narcotic substances, which is transported in one Eicher truck bearing registration No.PB-03-BC-3939 and the said truck is escorted by Surajbhan from a Mahindra XUV car parked nearby. If a raid is conducted, they can be apprehended red-handed. A raid was conducted and co-accused Sachin @ Shishan and petitioner-Suresh Kumar were apprehended by



the police party and 210 kg Ganja was recovered from 15 plastic bags loaded in the truck and car. In their disclosure statements, they disclosed the name of Surajbhan, as the main conspirator.

4. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. He is in custody since 07.09.2022 and after completion of investigation, challan has been presented. Out of total 30 witnesses cited by the prosecution, only 06 witnesses have been examined till date and trial has got delayed. Co-accused namely Sunder Lal, Sachin @ Shishan and Surajbhan have already been released on bail (Annexure P-2 to Annexure P-4). 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. In support of his contention, learned counsel 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**.

5. 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 Ganja 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. As per allegations, petitioner alongwith co-accused Sachin @ Shishan was found to be in possession of 210 kg of Ganja, which falls under commercial quantity. Petitioner is in custody since 07.09.2022 and out of total 30 witnesses cited by the prosecution, only 06 witnesses have been examined till date. The 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. Hon'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 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 also found in possession of 10,000 ml of codeine phosphate - a cough syrup which falls



within the commercial quantity. Moreover, co-accused Sachin @ Shishan has already been released on bail, who was apprehended alongwith the petitioner.

7. 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.

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.

14.11.2025
Priyanka Thakur

(YASHVIR SINGH RATHOR)
JUDGE

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