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

CRM-M-70250-2025
Date of decision: 17.12.2025

GULZAR SINGH ALIAS KUNAL ....Petitioner

Versus

STATE OF PUNJAB ...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : None for the petitioner.

YASHVIR SINGH RATHOR. J.(Oral)

1. Today, the lawyers are abstaining from work.

2. Present 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.10 dated 27.01.2024, under Sections 22 and 25 of NDPS Act, registered at Police Station Dhanaula, District Barnala.

3. As per allegations in the FIR that on 27.01.2024, ASI Balwinder Singh alongwith other police officials was on patrolling duty near Dana Mandi, Dhanaula. On receiving secret information, that one Gulzar Singh (petitioner) was involved in illegal trafficking of intoxicating tablets, they laid a naqa near Dana Mandi, Dhanaula. Thereafter, they apprehended Gulzar Singh (petitioner) and upon checking, 80 strips of Tramadol Hydrochloride were recovered from him. The contraband was taken into possession. On interrogation, he nominated co-

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accused Manjinder Singh and Balvir Singh @ Bira. Thereafter, said Balvir Singh @ Bira was arrested on 31.01.2025 and 2200 tablets of Tramadol Hydrochloride (818.4 grams) were recovered from his possession. After completion of investigation, challan has been presented against the accused for trial.

4. It is mentioned in the petition that petitioner has been falsely implicated. Petitioner is in custody since 27.01.2024 and after completion of investigation, challan has been presented and thereafter, charge has been framed. However, the case is still at the stage of prosecution evidence and trial has not been concluded and conclusion of the trial is likely to take a long time. Even otherwise, co-accused namely Balvir Singh alia Bira from whom 2200 tablets of Tramadol Hydrochloride (818.4 grams) were recovered has already been released on bail by this Court vide order dated 04.12.2025, and the petitioner is entitled to be released on bail even on the ground of parity.

5. 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.

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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.** decided on 14.11.2025, 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 (2022) 10 SCC 52, **Satender Kumar Antil Vs. Central Bureau of Investigation**, 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.

6. In the present case also, petitioner was found in possession of 80 strips of Tramadol Hydrochloride which falls within commercial quantity.

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Petitioner is in custody since 27.01.2024 and after completion of investigation, challan has already been presented but the trial 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. Moreover, co-accused namely Balvir Singh alia Bira from whom 2200 tablets of Tramadol Hydrochloride (818.4 grams) were recovered has already been released on bail by this Court vide order dated 04.12.2025, and the petitioner is entitled to be released on bail even on the ground of parity. 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.

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(iv) Petitioner shall deposit his passport, if any, with the trial Court.

(v) Petitioner shall not in any manner delay the trial.

7. 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

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

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