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CRM-M-5368-2026

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2026.PHHC.036841



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-5368-2026

Date of decision: 10.03.2026

KANWAL KISHORE

....Petitioner

Versus

STATE OF HARYANA

....Respondent

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. Aakash Juneja, Advocate for the petitioner.
(through V.C.)

Sh. Vikram Singh, Asstt. A.G. Haryana.

.....

RUPINDERJIT CHAHAL, J. (ORAL)

1. Prayer in the instant petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case FIR No.240 dated 26.08.2024 registered under Sections 20, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Beri, District Jhajjar.

2. Brief facts of the present case, as per the prosecution, are that on 26.08.2024, ASI Mukesh Kumar along with his fellow police officials was on a patrolling duty and on the basis of secret information, apprehended the petitioner who was found in conscious possession of 29.160 kgs of *Ganja*. Hence, the present FIR.

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



were not complied with at the time of alleged search and seizure. He argued that the recovery of alleged contraband has already been effected from the petitioner and nothing more is to be recovered from him. He submits that the petitioner has clean antecedents as he is not involved in any other case. The petitioner is in custody since 26.08.2024. The investigation in the case is complete; challan stands presented and charges have also been framed; out of 14 prosecution witnesses only 03 have been examined. He further submits that the trial will take a long time to conclude and no useful purpose would be served by keeping him behind the bars.

4. Learned State counsel has filed the status report and custody certificate has already been filed. He has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature as he was apprehended at the spot with the alleged contraband, which falls under the commercial quantity. However, he has not controverted the fact that the petitioner is first time offender as he is not involved in any other case.

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 01 year and 06 months, investigation is complete; challan stands presented; charges have also been framed; out of 14 prosecution witnesses only 03 have been examined and the fact that trial may take a long time to conclude, no useful purpose would be served by detaining him in further custody. His continued detention without the prospect of the trial being concluded in the near future would be violative of his rights under Article 21 of the Constitution of India.



6. Reliance is placed upon a judgment in the case of ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, wherein Hon'ble Apex Court has held that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of her right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle "*bail is a rule*" and "*jail is an exception*".

7. A two-Judge Bench of the Hon'ble Supreme Court, in ***Nandlal Mondal @ Abhay Mondal v. State of West Bengal***, SLP (Crl.) No.12788/2023, granted bail to the accused after 18 months of incarceration on the ground of delay in trial in an NDPS matter involving commercial quantity of contraband. Similar relief has been granted by the Hon'ble Supreme Court in a series of judgments, namely: *Md. Aliul Islam @ Aliul Islam @ Alius v. State of West Bengal*, SLP (Crl.) No. 736/2024; *Debrata Mondal v. State of West Bengal*, SLP (Crl.) No.14970/2023; *Santarul Islam @ Santa v. State of West Bengal*, SLP (Crl.) No.13169/2023; *Indrajit Mondal @ Piglu v. State of West Bengal*, SLP (Crl.) No.8512/2023; *Narjul Islam @ Najbul Hoque v. State of West Bengal*, SLP (Crl.) No.14172/2023; *Subhashri Das @ Rana @ Subhoshree v. State of West Bengal*, SLP (Crl.) No.15284/2023; *Mithun Sk. & Anr. v. State of West Bengal*, SLP (Crl.) No.16598/2023; *Sk. Nasiruddin @ Nasirddin Sk. v. State of West Bengal*, SLP (Crl.) No.3402/2024; *Indadul Shah v. State of West Bengal*, SLP (Crl.) No.12670/2023; *Hanef Kharsani @ Hanef Sheikh v. Union of India*; *Ripon Seikh & Ors. v. State of West Bengal*, SLP (Crl.) No.16663/2023; *Moidul Sarkar v. State of West Bengal*, SLP (Crl.) No.15668/2023; *Saniya Bibi @ Soniya Bibi v. State of West Bengal*, SLP (Crl.) No.2354/2024; *Saddam*



Golam Murselim v. State of West Bengal, SLP (Crl.) No.6046/2024; and *Subhas v. State of West Bengal*, SLP (Crl.) No.8823/2019.

8. Moreover, prolonged detention of the petitioner, without any likelihood of the trial being concluded in the near future, would amount to a violation of their fundamental rights guaranteed under Article 21 of the Constitution of India. The Hon'ble Supreme Court, in ***Mohd. Muslim @ Hussain v. State (NCT of Delhi)*, 2023 AIR SC 1648**, while dealing with an NDPS case, held that the principles of fairness embodied under Article 21 override the statutory restrictions on grant of bail under Section 37 of the NDPS Act. Speaking through Justice S. Ravindra Bhat, the Court observed:

"20. The standard to be considered therefore, is one, where the court would look at the material in a broad manner, and reasonably see whether the accused's guilt may be proved. The judgments of this court have, therefore, emphasized that the satisfaction which courts are expected to record, i.e., that the accused may not be guilty, is only prima facie, based on a reasonable reading, which does not call for meticulous examination of the materials collected during investigation (as held in Union of India v. Rattan Malik). Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436A which is applicable to offences under the NDPS Act too (ref. Satender Kumar Antil supra). Having regard to these factors the court is of the opinion that in the facts of this case, the appellant deserves to be enlarged on bail.

21. Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable .



Jails are overcrowded and their living conditions, more often than not, appalling."

9. In view of the above, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned. It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

10.03.2026
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(RUPINDERJIT CHAHAL)
JUDGE

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