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

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Date of Decision: 24.04.2026

Kapil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Mr. Sahil Goel, Advocate (through VC)
for the petitioner.

Ms. Shaveta Sanghi, DAG, Haryana.

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 to the petitioner in case FIR No.116 dated 19.07.2024 registered under Section 22(C) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Partap Nagar, District Yamuna Nagar.
2. Brief facts of the present case are that on 19.07.2024, ASI Matloob Hussain, along with his fellow police officials was on patrolling duty and on the basis of secret information, apprehended the petitioner, who was found in conscious possession of 1176 intoxicant capsules of Tramadol Hydrochloride. Hence, the present FIR.
3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and he has no

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concern with the said offence. He further submitted 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. Further, co-accused Shivam has already been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 26.03.2025. Moreover, the petitioner has clean antecedents as he is not involved in any other case. The petitioner is in custody since 19.07.2024. The investigation in this case is complete, challan stands presented and charges have also been framed. He further submitted that there are total 25 prosecution witnesses and out of which, only 02 have been examined till date and as such, the trial will take a long time to conclude and no useful purpose would be served by keeping him behind bars. Therefore, it is urged that the petition deserves to be allowed.

4. Notice of motion.

5. Learned State counsel, who has appeared on advance notice of the petition, has filed the custody certificate of the petitioner, which is taken on record. She has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature. She argued that the petitioner was apprehended at the spot with the alleged contraband, which falls under the commercial quantity. However, she has not controverted the fact that the petitioner is a first time offender as he is not involved in any other case.

6. 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

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for more than 01 year and 09 months; he has clean antecedents; investigation is complete; challan stands presented; charges framed; out of 25 witnesses, only 02 have been examined till date; the complicity of the petitioner is a matter of trial, which is proceeding at snail's pace, and will take a long time to conclude. Thus, 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.

7. 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 his 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*".

8. A two-Judge Bench of the Hon'ble Supreme Court, in ***Nandlal Mondal @ Abhay Mondal v. State of West Bengal, SLP (CrI.) 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 (CrI.) No. 736/2024*; *Debrata Mondal v. State of West Bengal, SLP (CrI.) No.14970/2023*; *Santarul Islam @ Santa v. State of West Bengal, SLP (CrI.) No.13169/2023*; *Indrajit Mondal @ Piglu v. State of West Bengal, SLP (CrI.) No.8512/2023*; *Narjul*

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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 Hossain v. State of West Bengal*, SLP (Crl.) No.15496/2023; *Bijon Sk. @ Golam Murselim v. State of West Bengal*, SLP (Crl.) No.6046/2024; and *Subhas v. State of West Bengal*, SLP (Crl.) No.8823/2019.

9. 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



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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."

10. 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.

24.04.2026*D.Bansal*

(RUPINDERJIT CHAHAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No