



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.12620 of 2025 (O&M)
Date of Decision: 12.02.2026

Kulwant Singh

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. N.S. Sodhi, Advocate for the petitioner.
(through hybrid mode).

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

This third petition for bail has been filed by the petitioner while invoking the jurisdiction vested in this Court by virtue of Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023. The above mentioned petition has been filed with regard to a case arising out of FIR No.221 dated 01.11.2023, under Sections 22 & 29 of Narcotic Drugs & Psychotropic Substances Act, 1985, hereinafter being referred to as 'NDPS Act', Police Station Sadar Fazilka, District Fazilka.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being at the instance of Sub Inspector 'Kulwant Singh', who had reported that on 01.11.2023 when he was leading a team of police officials deputed for patrolling duty he got a tip-off from a reliable source that 'Gagandeep Singh' and 'Kulwant Singh' were transporting huge quantity of intoxicant tablets from Rajasthan in a white colour Innova car bearing



registration No.PB-13BC-6967, and that they were travelling from Abohar to Fazilka. As per report submitted by the above named police official in view of above mentioned information he deputed a picket on the road and erected a barricade. It was further reported that the abovesaid police team intercepted the abovementioned vehicle, and on search of the vehicle a plastic bag, lying between driver and co-driver seat, was recovered. According to report on opening of the same 1200 strips of 'Covidol' 100 SR tablets (total 5.16 Kg.), having 'Tramadol' sustained release tablets were recovered.

3. The above named police officer further reported that the above mentioned recovered contraband was duly seized, sealed and the necessary formalities with regard to filing of FIR and arrest of accused were undertaken. It has been further alleged by the prosecution that during the course of investigation when the accused were interrogated they suffered their respective disclosure statements, and pursuant thereto, 1650 strips (total 7.1115 Kg.) of the same tablet were recovered from the fuel tank of the car. As per prosecution the above mentioned recovered contraband, too, was duly sealed and seized by virtue of separate memo.

4. The learned State Counsel has filed custody certificate of the petitioner and reply by way of affidavit of Deputy Superintendent of Police, Sub-Division Fazilka. The same be taken on record.

5. Heard.

6. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that despite availability and opportunity of independent witness no independent



witness has been joined in this case. According to learned counsel for the petitioner the above mentioned lapse on the part of Investigating Officer in itself speaks in volume about the falsity of allegations against the petitioner. While claiming that the petitioner is innocent, it has been contended that the requisite rules and instructions were not followed with regard to recovery and seizure of contraband, search and arrest of the accused. It has also been contended by learned counsel for the petitioner that the benefit of bail has already been afforded to the co-accused.

7. In addition to above, it has also been argued by learned counsel for the petitioner that the petitioner has already suffered a prolonged incarceration for being in custody for a period of more than 2 years and 3 months. According to learned counsel for the petitioner the trial in the present case is taking place at snail's pace as out of twenty seven, two witnesses, only, have been examined so far, and that otherwise also there is non-compliance of Section 42 of NDPS Act.

8. In support of his arguments, the learned counsel for the petitioner has placed reliance upon the principles laid down by the Hon'ble Supreme Court of India in the cases of 'Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal', Special Leave to Appeal (Crl.) Nos. 12788-2023,' Mohammad Salam Hanif Shaikh Vs. The State of Gujarat', SLP (Crl.) No.5530 of 2022, 'Nitish Adhikary @ Bapan Vs. State of West Bengal', SLP No.5769 of 2022, 'Gopal Krishna Patra @ Gopalrusma, Criminal Appeal No.1169 of 2022', 'Zorawar Singh @ Shenty, CRA-S-147-SB-2017', 'Dilbag Singh @ Bagga Vs. State of Punjab', CRM-M No.45796 of 2019, 'Sukhdev Singh Vs.



State of Haryana', Criminal Appeal No.2118 of 2008, 'Rajender Singh Vs. State of Haryana', Criminal Appeal No.1051 of 2009, 'Paramjit Singh @ Pamma Vs. State of Punjab', CRM-M No.58727-2023, 'Sarija Banu (A) Janarthani Vs. State Through Inspector of Police (2004) 12 SCC 266', 'Boota Singh and others Vs. State of Haryana', Criminal Appeal No.421 of 2021, 'Rabi Parkash Vs. State of Odisha', SLP (Crl.) No.4169 of 2023, 'Daler Singh Vs. State of Punjab', CRM-M-35417-2022, 'Gurbir Singh Vs. State of Punjab', CRM-M-13314-2021, 'Ajay Kumar @ Nannu Vs. State of Punjab', CRM-M-10343-2020, 'Didar Singh @ Dara Vs. State of Punjab', Criminal Appeal No.906-DB of 2006, 2010 (3), CRC (Criminal) 337, 'Ajay Malik and others Vs. State of UT Chandigarh,' 2009(3) RCR (Criminal) 649, and 'Yusuf @ Asif Vs. State', 2023(4) RCR (Criminal) 686.

9. Per contra, the learned State counsel has argued that in the present case the quantity of contraband recovered from the possession of petitioner comes within the ambit of commercial quantity, and therefore, without satisfying the twin conditions enshrined under Section-37 of NDPS Act, the benefit of bail cannot be afforded to the petitioner.

10. The learned State counsel has also argued that the petitioner is not a person having clean antecedents as he has been facing trial in numerous cases including the cases under NDPS Act. Further, it has been argued that second petition for bail moved by the petitioner was disposed of on 06.11.2024. According to learned State counsel merely on the ground of long incarceration the conditions under Section-37 of NDPS Act cannot be relaxed. In this regard the learned State counsel has placed reliance upon the principles



laid down by the Hon'ble Supreme Court of India in the cases of 'Union of India Vs. Rattan Mallik @ Habul', 2009 (2) Apex Court Judgments (SC) 267, 'Sheru Vs. Narcotics Control Bureau', 2020 (4), RCR (Criminal) 242, 'Jagga Singh Vs. State of Punjab', CRM-M-14952-2022, and 'Manpreet Singh @ Kaku Vs. State of Punjab', CRM-M-40999-2022.

11. In addition to above the learned State counsel has also referred to the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'The State (NCT of Delhi) Narcotics Control Bureau v. Lokesh Chadha', (2021) 5 SCC 724, wherein it has been held that no person accused for offences involving a commercial quantity shall be released on bail, where the public prosecutor opposes the application, unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

12. The record has been perused carefully.

13. Since the recovery of contraband in the present case comes within the ambit of commercial quantity it shall be appropriate to look into the relevant legal position. As far as the legal position governing the benefit of bail in a case related to recovery of commercial quantity of contraband is concerned, the principles of law laid down by the Hon'ble Supreme Court in the case of 'Mohd. Muslim @ Hussain v. State' (NCT of Delhi), 2023 SCC OnLine SC 352 are relevant, wherein the Hon'ble Supreme Court has held that grant of bail on account of undue delay in trial cannot be said to be fettered under Section-37 of the NDPS Act, given the imperative of Section 436-A which is applicable to offences under the Act.



14. In this regard it is also relevant to mention here that the Hon'ble Supreme Court of India in the case of 'Manmandal and Another v. State of West Bengal', Special Leave Petition (Criminal) No.8656 of 2023 decided on 14.09.2023 and 'Rabi Prakash v. State of Odisha', 2023 SCC Online SC 1109, extended the benefit of bail to the accused, who had been incarcerated for a period of almost 2-3 years and the trial was likely to take considerable time. The above-mentioned benefit has been given by observing that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article-21 of the Constitution, and in such a situation, the constitutional principles must override the statutory embargo contained under Section-37 of the NDPS Act.

15. In addition to above, in a recently pronounced verdict in the case of 'Santosh Pawar Vs. State of Chhattishgarh & Anr.' Criminal Appeal No.4883/2025, the Hon'ble Supreme Court of India observed that rigors of Section 37 of NDPS Act will not be a bar for considering the case of an accused for bail as it comes with a condition that the prosecution would press for an early completion of trial. In the above-mentioned case the Hon'ble Supreme Court of India 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.

16. Similarly in another case i.e. in the case of 'Satender Kumar Antil v. Central Bureau of Investigation' (2022) 10 SCC 51 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 NDPS Act. The Hon'ble Supreme Court of India expressed the opinion that Section 436A of the 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 in such cases.

17. In the case of 'Ismail Khan @ Pathan vs. State of Rajasthan' Criminal Appeal No.4911 of 2025 with regard to recovery of commercial quantity of narcotic substance the Hon'ble Supreme Court of India accorded the benefit of bail to the accused in view of prolonged incarceration for a period of 02 years and 08 months of the accused.

18. The similar benefit has been taken in another appeal i.e. SLP No.15699-2025 titled as 'Ebrahim @ Ibrahim SK vs. The State of West Bengal' and in the case of 'Pamesh Arora vs. UT Chandigarh' Criminal Appeal No.4872 of 2025.

19. In the case of 'Hasanujjaman & Ors. V/s The State of West Bengal' SLP (Crl.) No.3221 of 2023, the benefit of bail has been accorded by the Hon'ble Supreme Court of India to an accused, who was found in the possession of 115 bottles of phensedyl, by observing that:-

- a) the petitioner was in custody for a period of one year and three months;
- b) the investigation in that case was complete and charge-sheet had been filed, but charges were yet to be framed;
- c) the conclusion of trial would take some time; and
- d) the petitioner had no criminal antecedents.



In view of abovementioned prevailing factors, it has been observed by the Hon'ble Supreme Court of India that there is substantial compliance of Section-37 of NDPS Act.

20. Similarly, in the case of 'Nandlal Mondal @ Abhay Mondal (supra)', the Hon'ble Supreme Court of India afforded the benefit of bail to the accused, who was found in possession of 10,000 ml of codeine phosphate, and was in custody for a period of one and a half year, by considering that conclusion of trial would take long time.

21. If the facts and circumstances of the present case are analyzed in the light of above-mentioned principles of law, it transpires that:-

- i) that the petitioner has already suffered prolonged incarceration for a period of more than 02 years and 03 months;
- ii) that the trial is progressing at a very slow pace as out of 27 only 2 witnesses have been examined so far;
- iii) that there are very strong points which are raising fingers towards the manner in which the investigation has been conducted, such as despite information in advance the compliance of Section 42 of NDPS Act was not made;
- iv) that second bail petition was disposed of way back in April, 2024 and even the abovesaid disposal was not on merits;
- v) that the trial is not likely to be concluded in near future;
- vi) that nothing is left to be recovered from the possession of



petitioner;

- vii) that detention of petitioner in judicial lock up is not likely to serve any purpose;
- viii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- ix) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial;

22. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to an undertrial prisoner, as mandated by Hon'ble Apex court in 'Balwinder Singh versus State of Punjab and another' 2024 SCC Online SC 4354.

23. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession of bail, and that the present petition deserves to be allowed.

24. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However, the abovesaid benefit shall be subject to following conditions:-

- i) that the petitioner shall not directly or indirectly make any



inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court or to any other authority;

- ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- iii) that the petitioner shall not leave India without prior permission of trial Court.

(SURYA PARTAP SINGH)
JUDGE

12.02.2026
Manoj Bhutani

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