



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

229-2

CRM-M-24198-2025
Date of Decision : 11.02.2026

SADAM HUSSAIN @ DAMI

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Amjad Khan, Advocate
for the petitioner.

Mr. Gurdeep Singh, AAG, Punjab.

AARADHNA SAWHNEY, J. (ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No.46 dated 14.11.2024 registered against him, for commission of offences punishable under Section 20, 61, 85 of Narcotic Drugs and Psychotropic Substances, Act 1985 at Police Station City Ahmedgarh, District Malerkotla, has prayed for grant of bail.
2. Relevant facts emerging from documents on record be noticed hereinbelow:-

On 14.11.2024 based on a chance recovery, Police team headed by ASI Harjinder Singh, seized 02 Kg of Sulfa 'Charas' of (contraband falls within 'Commercial' Quantity) from the seat of motorcycle bearing registration No.PB-13AT-4973 (Marka Bajaj Discover) driven by Parvez Khan @ Kala, son of Gulzar Mohd. Saddam Hussain @ Dami (present petitioner), s/o Sudagar Khan was the pillion rider. After the statutory formalities were complied



with, FIR was lodged and both of them were arrested on the same day i.e. 14.11.2024. During interrogation, they disclosed that one Suraj Mohammad, owner of the aforesaid motorcycle, had permitted them to use his motorcycle for transportation of 'Charas'.

3. Petitioner-accused, moved an application for grant of bail before the learned Judge, Special Court, Malerkotla. The same was dismissed vide order dated 23.05.2025. Aggrieved of which, present petition has been filed.

4. Learned counsel submits that petitioner has been falsely implicated in the present case. No recovery was effected from his (P) person. The Police team did not comply with the mandatory provisions of Section 50 of the Act. Further the falsity of the case set up by the prosecution is apparent from the fact that alleged recovery of contraband having been effected from busy public place, no efforts were made by IO to join any independent person as a 'witness' to the case proceedings, neither any cogent reason is forthcoming for these procedural lapses.

Continuing further, learned counsel submits that on completion of investigation, challan was filed on 14.01.2025 and charges were framed. But out of 17 cited prosecution witnesses, none has been examined till date, thus, likelihood of completion of trial in the near future is quite remote. Hence, when viewed in the light of factual scenario of case, further incarceration of petitioner, who has absolutely clean antecedents being not involved in any other criminal case, would not serve any useful purpose as the same would be violative of his Fundamental rights guaranteed under Article 21 of the Constitution of India.

It has thus been prayed that petitioner, who has been in custody since 14.11.2024, deserves a lenient view to be taken in his favour by extending him



the concession of bail. Prayer for allowing the petition has been made.

5. *Per contra*, learned State counsel has opposed the request for grant of bail on the ground that '*Commercial Quantity*' of contraband was recovered from vehicle in which petitioner and co-accused were travelling; there being nothing to suggest that petitioner was unaware of this fact. As per learned State counsel, the rigors of Section 37 of NDPS Act are attracted which bar the grant of bail, unless the twin conditions prescribed in the provision are satisfied. Dismissal of the petition has been prayed for.

6. I have heard the learned counsel for the parties and have gone through the documents on record.

7. Before proceeding to discuss the rival contentions, it would be appropriate to refer to judgment of Hon'ble Supreme Court wherein in case titled ***Chitta Bishwas @ Shubash Vs. State of West Bengal*** ***Law Finder Doc Id# 1938935***, considering the duration of custody and progress in trial, Hon'ble Supreme Court granted bail to an accused/appellant who was found in possession of 46 bottles of PHENSYDRYL Cough Syrup containing codeine mixture above commercial quantity.

In ***Md Aliul Islam @ Aliul Islam @ Aliul Vs. State of West Bengal*** ***Law Finder Doc Id# 2734487***, Hon'ble Supreme Court granted bail to an accused, involved in a case under Section 21(c)/27A of NDPS, considering custody period and similarity with other accused, whose bail had been allowed.

Similarly in ***Devrata Mondal Vs. State of West Bengal*** ***Law Doc Finder Id # 2734476***, on the ground of prolonged custody and parity with other accused, co-accused Davrata, who was allegedly caught keeping in his possession 290 bottles of PHENSYDRYL Cough Syrup (Commercial quantity) was granted the concession of bail by the Hon'ble Supreme Court.



In *Santarul Islam Vs. State of West Bengal*, Law Finder Doc Id# 2735329, Hon'ble Supreme Court granted bail to the petitioner who was also caught keeping in his illegal possession of PHENSYDRYL Cough Syrup (on the ground of prolonged custody and nature of contraband).

In *Maulana Mohd. Amir Rashadi Vs. State of U.P. and another*, 2012(1) RCR (Criminal) 586, Hon'ble Supreme Court upheld the order of the High Court in granting bail to the second respondent/accused on the ground that he had been in custody for a long period and the possibility of the trial being concluded in the near future was remote.

Having gone through the aforesaid judgments, it is clear that Constitutional liberty must override the statutory embargo. Guided solely by the said principle and considering that the possibility of completion of trial in near future is quite remote, petitioner who has been in custody since 14.11.2024 and whose past antecedents are clean, deserves a lenient view to be taken in his favour, for the likelihood of completion of trial is quite remote as out of 17 prosecution witnesses, none has been examined till date. The Court is, thus, of the opinion that in the facts and circumstances as mentioned above, his (P) further incarceration in custody would not serve any purpose. Resultantly, in view of discussion made herein above, petitioner is granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

- (i) *The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) *The petitioner will not tamper with the evidence during the trial.*
- (iii) *The petitioner will not pressurize/ intimidate the prosecution witnesses.*



- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- (vii) The petitioner shall not in any manner misuse his liberty.*
- (viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.*
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.*

8. Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)
JUDGE

11.02.2026
Nisha Yadav

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No