



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

324

CRM-M-26951-2025(O&M)

Date of decision: 02.02.2026

Rohit Sharma @ Labha

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Sidhant Vermani, Advocate for the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J.(ORAL)

1. By virtue of the petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No. 15 dated 10.02.2023 registered against him, for commission of offences punishable u/s 22/61/85 of Narcotic Drugs and Psychotropic Substances, Act 1985 at Police Station Sadar Gurdaspur, District Gurdaspur, has prayed for grant of bail.

2. Relevant facts as emerging from documents on record be noticed hereinbelow:-

On 10.02.2023 based on a chance recovery, Police team headed by ASI Nishan Singh seized 180 intoxicant tablets, total weighing 50.22 grams of Etizolam (contraband falls within 'Commercial' Quantity) from the dashboard of the vehicle bearing registration No.PB-06BC-9873 (make TATA ACE Gold) driven by Pardeep Raj @ Tonu son of Jagdish Raj. Rohit Sharma @ Labha (present petitioner) son of late Srishtipal and Gurdeep Raj @ Monu, son of Jagdish Raj were also sitting in the car. After the statutory formalities were complied with, FIR was lodged. All 03 aforesaid persons were arrested at the site on 10.02.2023.

3. Petitioner/accused moved an application for grant of interim bail before the learned Additional Sessions Judge, Gurdaspur. The same was



granted vide order dated 13.03.2023 with condition that petitioner will surrender before the trial Court if contents of salt falls within the ambit of 'Commercial Quantity'. On culmination of investigation, challan accompanied by report of Chemical Examiner was prepared and filed in the Court on 08.05.2024. As per report, the recovered tablets fall within the ambit of 'Commercial Quantity', the interim bail of the petitioner was cancelled. Consequently, he was arrested on 17.07.2024.

Petitioner moved an application for grant of bail before the Judge, Special Court, Gurdaspur. The same was dismissed vide order dated 07.04.2025.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. No recovery has been effected from him. 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 despite the alleged recovery of contraband was effected from busy public place but no efforts were made by IO to join any independent person as a 'witness' to the case proceedings.

Continuing further, learned counsel submits that on completion of investigation, challan was filed on 08.05.2024 and petitioner was charge-sheeted on 30.07.2024. But till date, out of 10 prosecution witnesses, only 06 have been examined and 01 witness has given up, thus, likelihood of completion of trial in the near future is quite remote. Hence, further incarceration of petitioner, would not serve any useful purpose and would also be violative of his Fundamental rights guaranteed under Article 21 of the Constitution of India.



Towards the end, learned counsel contends that petitioner, who has been in custody since 17.07.2024 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. Status report dated 20.01.2026 by way of affidavit of Mr. Mohan Singh, PPS, Deputy Superintendent of Police, Gurdaspur, has been placed on record. Learned State counsel has opposed the request for grant of bail on the ground that contraband recovered from the petitioner is 'Commercial Quantity'. In view of the quantity of the contraband recovered from the petitioner and co-accused arrested at the site, 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. Further, the fact that he is involved in one another case of like nature (FIR No.43 dated 13.05.2015 under Sections 21/22/61/85 of NDPS Act), no case for grant of bail is made out. 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 certain judgments of Hon'ble Supreme Court wherein case titled as ***Shambu Lal Gurjar Vs. State of Rajasthan, SLP Criminal 16671 of 2024***, decided on 23.04.2024, it was held as under:-

"The allegations against the petitioner is that there is a recovery of 60 kgs poppy husk/straw (contraband article) from him and prior to this incident, he has three criminal antecedents relating to the NDPS Act registered in the year 2019, 2021 and 2022. The third bail application of the petitioner was dismissed by the High Court. He has already undergone about 1 year and



8 months in jail.

Heard learned counsel for the petitioner and the respondent State.

Considering the fact that the contraband article is a poppy straw although he has three criminal antecedents but since he has been in jail for the last 1 year and 8 months, we are of the opinion that a case of bail is made out for the petitioner.”

Further in **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.

It is, thus, clear that criminal antecedents by themselves, is not a legal ground to deny the rigors of Section 37 of the NDPS Act, particularly in cases where the accused-petitioners are in custody for a long period.

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 17.07.2024 deserves a lenient view to be taken in his favour, for the likelihood of completion of trial is quite remote as out of 10 prosecution witnesses, only 06 have 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.

9. Pending application, if any, also stands disposed of.

(AARADHNA SAWHNEY)
JUDGE

02.02.2026

Hemant

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