



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

234

CRM-M-35072-2025
Date of Decision: 21.01.2026

Rajinder Singh alias Raja

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Ms. Monita Mehta, Advocate
for the petitioner.

Mr. Amit Shukla, DAG, Punjab.

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.13 dated 07.07.2024 registered under Sections 18, 25, 29, 61 & 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station State Special Operation Cell, Fazilka.
2. Brief facts of the present case are that on 07.07.2024, ASI Ravinder Kaur, along with her fellow police officials was on patrolling duty and on the basis of secret information, intercepted a car occupied by the petitioner and co-accused Balwinder Singh alias Baba. On checking, 3 Kg 769 grams opium was recovered from the car. 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 alleged incident. He further contends that mandatory provisions of the NDPS Act were not complied with at the time of alleged search and seizure. He argues that the recovery has already been effected and nothing more is to be recovered from him. The petitioner is in custody since 07.07.2024. The investigation in the case is complete, challan stands presented and charges have also been framed. He further submits that there are total 15 prosecution witnesses and out of which, 3 witnesses 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.. He has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature and the recovery of alleged contraband in the present case falls under the commercial quantity. He further submits that the petitioner is involved in one more case meaning thereby he is a habitual offender.

6. This Court is sanguine of the fact that according to the proposition settled by the Apex Court in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, 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”.

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 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*.

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. As regards the submission of learned State counsel that

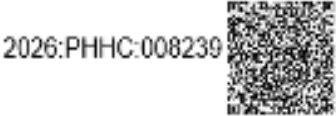


petitioner is involved in other/one more criminal case(s), reference is placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** in which, it is held that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other/another case(s). The relevant portion of the said judgment is reproduced herein-below:-

"As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

10. Having heard learned counsel for the parties at length and after perusing the record of the case, it is evident that the petitioner has been in custody since 01 year, 06 months & 9 days; investigation is complete; challan stands presented; charges have also been framed and out of total 15 prosecution witnesses, only 3 witnesses have been examined till date the complicity of the petitioner is a matter of trial, and the trial is likely to take a long time to conclude. No useful purpose would be served by keeping the petitioner 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.

11. 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.

21.01.2026
monika

(RUPINDERJIT CHAHAL)
JUDGE

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