



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

**CRM-M-38051-2025 (O&M)
Date of decision: 12.01.2026**

LAKHBIR SINGH @ LAKHVIR SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Supinder Singh Sohi, Advocate for the petitioner. (through VC)

Mr. Gorav Kathuria, DAG Punjab.

YASHVIR SINGH RATHOR. J.(Oral)

1. The present petition under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case FIR No.19 dated 05.02.2022, registered under Sections 18, 21, 22 of NDPS Act, 1985 and Sections 25 & 27-54-59 of the Arms Act, 1959 (Sections 29-61-85 of the NDPS Act, 1985 added later on), at Police Station Shahpur Kandi, District Pathankot, Punjab.
2. Custody certificate dated 10.01.2026 has been filed by respondent-State which is taken on record.
3. Learned counsel for the petitioner as well as learned State counsel have been heard and material collected by the police during investigation has been perused.
4. As per the prosecution case, one car was apprehended by the police on 05.02.2022, in which three persons namely Lakhbir Singh @ Lakhvir Singh (petitioner), Salim and Anil were traveling. Anil was sitting on the rear seat and 2 kg heroin was recovered from his possession. One pistol and 2 cartridges each were



recovered from accused Lakhbir and Salim. Petitioner was arrested on 05.02.2022. After completion of investigation, final report has been presented.

5. Learned counsel for the petitioner contended that petitioner has been falsely implicated. No contraband has been recovered from his possession and the heroin was recovered from co-accused Anil Joshi, who was sitting on the rear seat and petitioner cannot be deemed to be in conscious possession of the same. Said Anil has already been released on bail by a Co-ordinate Bench of this Court vide order dated 05.12.2024 in CRM-M-35787-2024. Case of petitioner is on better footing as no recovery of contraband has been effected from him. The trial will take sufficiently long time to conclude as few more witnesses still remain to be examined and his further detention is not required. Learned counsel further contended that in view of his long incarceration, petitioner is entitled to be released on bail, as prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and the conditional liberty must override the statutory embargo created under Section 37 of the NDPS Act. In support of his contention, learned counsel for the petitioner has relied upon judgments passed in CRM-M-21794 of 2023 – **Sandeep Singh v. State of Punjab** decided on 05.05.2023, CRR-1785 of 2018 (O&M)- **Vicky Kaur v. State of Punjab**, decided on 13.08.2018, CRM-M-14029 of 2018 **Kamlesh v. State of Punjab**, decided on 06.05.2015, CRM-M-17321 of 2025 **Jassu Ram @ Jasuram v. State of Punjab**, decided on 04.04.2025 and a judgment of Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No. (s).12788/2023 – **Nandalal Mondal @ Abhay Mondal v. The State of West Bengal**, judgment of Hon'ble Supreme Court passed in Criminal Appeal No.4883/2025 - **Santosh Pawar Vs. State of Chhattisgarh & Anr.** decided on 14.11.2025 and (2022) 10 SCC 52,

**Satender Kumar Antil Vs. Central Bureau of Investigation.**

6. On the other hand, learned State counsel has opposed the bail and argued that petitioner has committed a heinous offence and in view of the gravity of the offence, petitioner does not deserve the concession of bail.

7. Hon'ble Supreme Court in 2023 Live Law (SC) 533, **Rabi Prakash v. State of Odisha** has held that prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37 of the NDPS Act. To the same effect is the law laid down by Hon'ble Supreme Court in 2024 (4) RCR (Criminal) 172, **Ankur Chaudhary v. State of Madhya Pradesh** 2023 AIR(SC) 1648, **Mohammad Muslim alias Hussain v. State (NCT of Delhi)** in which Hon'ble Supreme Court while granting regular bail to an accused, from whom commercial quantity of contraband was recovered, has held that grant of bail on the ground of undue delay in trial cannot be said to be fettered by Section 37 of the NDPS Act. A co-ordinate Bench of this Court has also held so in judgment reported as Law Finder Doc Id #2770222 **Garpawandeep Singh alias Bihari v. State of Punjab** decided vide judgment dated 27.08.2025 passed in CRM-M-19408 of 2025 wherein 260 grams of heroin was allegedly recovered. Hon'ble Supreme Court in Special Leave to Appeal (Criminal) No.12788/2023 titled **Nandalal Mondal alias Abhay Mondal v. The State of West Bengal**, vide judgment dated 03.01.2024 while taking into consideration the period of custody already undergone by the petitioner/under- trial, the fact that he does not have any criminal antecedents and also keeping in view the prolonged incarceration, ordered release of the petitioner on bail who was found in possession of 10,000 ml of codeine phosphate - a cough syrup which falls within



the commercial quantity. Hon'ble Supreme Court in Criminal Appeal No.4883/2025 titled **Santosh Pawar Vs. State of Chhattisgarh & Anr. (supra)**, has 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. In **Satender Kumar Antil's case (supra)**, 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 of NDPS Act. The Court expressed the opinion that Section 436A of 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.

8. Petitioner is in custody since 05.02.2022. Co-accused namely Anil has already been released on bail by a Co-ordinate Bench of this Court vide order dated 05.12.2024 in CRM-M-35787-2024. Challan has already been presented and charges have already been framed and out of total 21 prosecution witnesses, 16 have been examined. The trial is likely to take sufficiently long time to conclude and further detention of the petitioner is, thus, not required and he deserves to be released on bail. As such, the conditional liberty must override the statutory embargo created under Section 37 of the NDPS Act and grant of bail on the ground of undue delay in trial cannot be said to be fettered by Section 37 of the NDPS Act. Therefore, taking into consideration the facts and circumstances of the present case and also the ratio of law laid down in afore-mentioned case laws, I am of the opinion that no useful purpose will be served by keeping the petitioner in custody and resultantly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bond and surety bond to the satisfaction of



learned Trial Court/Duty Magistrate concerned, on usual terms and conditions. However, in addition to the terms and conditions that may be imposed by the trial Court/Duty Magistrate concerned, petitioner shall remain bound by the following conditions:-

- (i) Petitioner shall not misuse the concession of bail granted to him.
- (ii) Petitioner shall not tamper with any evidence, oral or documentary during the trial.
- (iii) Petitioner shall regularly appear before the trial Court and he will not commit any offence of similar nature while on bail.
- (iv) Petitioner shall deposit his passport, if any, with the trial Court.
- (v) Petitioner shall not in any manner delay the trial.

9. In case of breach of any of the aforesaid conditions or the conditions that may be imposed by the trial Court or upon any other sufficient cause, the State shall be at liberty to apply for cancellation of bail.

10. Pending misc. application(s), if any, shall also stand disposed of.

12.01.2026
Vishal Vardhan

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No