

2026.PHHC.043406



CRM-M-43772-2025

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

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CRM-M-43772-2025 (O & M)

Date of decision: 19.03.2026

SHIV ALIAS SHIVA

....Petitioner

Versus

UNION OF INDIA

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sandeep Saini, Advocate for
Ms. Sharmila Sharma, Advocate,
for the petitioner.

Mr. Sourabh Goel, Special Public Prosecutor, NCB and
Ms. Anju Bansal, Advocate.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer in the present petition filed under Section 483 BNSS is for grant of regular bail to the petitioner in complaint Crime No.17 dated 07.07.2023, under Sections 8, 20, 25 and 29 of NDPS Act, 1985, Police Station NCB, CZU, Chandigarh.

2. Learned counsel contends that the petitioner has been in custody for 2 years and 8 months. He alleges false implication. He was not arrested at the spot and himself surrendered after 20 days. As per the allegations, ganja weighing 47.145 kgs. was allegedly recovered from his house, thus, it is debatable whether he can be said to have been in conscious possession thereof. No independent witness has been joined at the time of recovery. Charges have been framed on 12.04.2024, however,

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only 6 PWs stand examined and there are still 10 more to go. He is not involved in any other case under the NDPS Act, though 3 of IPC, 1 of which he is on bail and has undergone the sentence in 2. Reliance is placed on the judgment passed by Hon'ble The Supreme Court titled as **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

3. The custody certificate dated 13.03.2026 filed by the learned State counsel is taken on record. As per the same, the petitioner is behind bars for 2 years, 7 months and 18 days.

4. Learned State counsel opposes the bail on the ground that commercial quantity of contraband was recovered from the house of the petitioner and he had surrendered after about 20 days. However, he is unable to controvert the submissions with regard to stage of the case and the petitioner being undergone the sentence in 2 cases and on bail in 1.

5. Heard.

6. Hon'ble The Supreme Court in the case of **Maulana Mohd. Amir Rashadi** (Supra) had held that, "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."

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7. Hon'ble The Supreme Court in **Shariful Islam @ Sarif versus The State of West Bengal** SLP (Crl.) No.4173/2022, decided on 04.08.2022, granted bail to the petitioner in a case of recovery of commercial quantity of contraband, considering incarceration for over 1 year and 6 months and there being no likelihood of completion of trial in the near future, while the Division Bench of this Court in **Bhupender Singh vs. Narcotic Control Bureau** (2022) 2 RCR (Crl.) 706, observed with regard to achieving balance between right to speedy trial guaranteed under Article 21 of the Constitution of India and rigors of Section 37 of NDPS Act.

8. This Court in the case of **Balraj Singh vs. State of Punjab** CRM-M-57386-2022, on 14.12.2022 has followed the dictum laid down by Hon'ble The Supreme Court and granted the bail to the petitioner therein after he had undergone total custody of 1 year and 6 months and in **Munasi Masih vs. State of Punjab**, CRM-M-31504-2022, on 06.2.2023, wherein commercial quantity of contraband had been recovered but only 2 out of 13 PWs had been examined, allowed bail.

9. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 2 years, 7 months and 18 days; on bail in 1 case; charges stand framed on 12.04.2024, but out of 16 PWs, 6 have been examined; the trial is likely to take a considerable time, further incarceration of the petitioner would be violative of his right enshrined under Article 21 of the Constitution of

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India and the rigors of Section 37 of the NDPS Act can be diluted bearing in mind the right to a speedy trial, the present petition is allowed.

10. The petitioner is ordered to be released on regular bail, subject to furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned, if not required in any other case and shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) 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.
- (v) 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.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number by way of an affidavit to the trial Court and not change the same till conclusion of trial and if for any reasons, he seeks to change either of the aforesaid, it shall be done only with prior information to the learned trial Court.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

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11. It is made abundantly 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.

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

19.03.2026

parveen kumar

(AMAN CHAUDHARY)
JUDGE

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