



CRM-M-45134-2025

-1-

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

233

CRM-M-45134-2025

DATE OF DECISION: 22.01.2026

SACHIN

.....Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM HON'BLE MR. JUSTICE SUBHAS MEHLA

Present Mr. P.S. Ahluwalia, Senior Advocate with  
Mr. Deepender Singh Virk and  
Ms. Simerpreet Sekhon, Advocate  
for the petitioner.

Ms. Puneeta Sethi, Sr. Panel counsel with  
Mr. Y.S. Thakur, Advocate for UOI through Central Bureau of  
Narcotics.

Mr. Karan Veer Singh, Sr. DAG, Haryana.

\*\*\*

**SUBHAS MEHLA, J (ORAL)**

1. This is the third petition filed under Section 483 of BNSS, 2023, seeking grant of concession of regular bail, to the petitioner in case FIR No.3 dated 29.06.2021 under Sections 21, 22, 25, 27-A, 28, 29, 30 and 35 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Central Bureau of Narcotic, Janakpuri, New Delhi, District Jhajjar (wherein the petitioner has been charge sheeted for offences punishable under Sections 8(c) read with Section 21(C), Sections 8(c), 29, Section 25 read with



Section 21(C) and Section 22(C), Section 28 read with Sections 21(C), 22(C) and 27A of the NDPS Act.

2. Briefly stated, acting upon secret information, the Investigating Agency conducted a raid on 29.06.2021 at the residential premises of the petitioner, Sachin, during which a huge quantity of narcotic and psychotropic substances was allegedly recovered without any valid licence, bills, or supporting documentation. The recovery included 4,970 tablets of Tramadol, 4,630 Tramadol injections, 60,000 tablets of Alprazolam, 3,700 Pentazocine injections, 142 bottles of codeine syrup, 720 tablets of Lorazepam, 50 Diazepam injections, and 710 Mephentermine injections. In addition to the aforesaid contraband, a sum of ₹5,00,000/-, alleged to be drug money, was also recovered by the Investigating Agency

3. Learned counsel for the petitioner did not advance any submissions on the merits of the case and confined his arguments to the period of incarceration already undergone by the petitioner, and the stage of the trial, invoking Article 21 of the Constitution of India. Learned Counsel for the petitioner submitted that Article 21 of the Constitution guarantees the right to life and personal liberty, including to under-trial prisoners. The petitioner has remained in custody since 29.06.2021, and despite such prolonged incarceration, the trial has made little progress, as trial is still at the stage of prosecution evidence, with only 2 out of 24 prosecution witnesses examined so far. According to the learned counsel, such delay in conclusion of the trial results in an unreasonable curtailment and infringement of the petitioner's



right to life and personal liberty. Although the NDPS Act prescribes stringent conditions for the grant of bail, every statute is required to operate in conformity with the fundamental principles enshrined in the Constitution of India. Hence, notwithstanding the rigours of the NDPS Act, the fundamental right guaranteed under Article 21 cannot be rendered illusory and must be duly balanced. In support of his contentions, Learned Counsel for the petitioner placed reliance on judgments of Hon'ble Supreme Court of India in cases titled as '*Arvind Dham Vs. Directorate of Enforcement*', 2026 INSC 12; '*Ankur Chaudhary Vs. State of Madhya Pradesh*', 2024 (4) RCR (Criminal) 172; '*Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh*', 2024(3) RCR (Criminal) 609; '*Nitish Adhikary @ Bapan Vs. State of West Bengal*', 2022 SCC Online SC 2068; '*Hasanujjaman Vs. State of West Bengal*', Doc Id #2739873; and '*Mohammad Salman Hanif Shaikh Vs. State of Gujarat*', Doc Id#2766918, as well as on certain judgements of co-ordinate benches of this Court: '*Sunny @ Kashi v. State of Haryana*', Doc Id # 2766918; '*Dinesh @ Kala Vs. State of Haryana*', 2025 NCPHHC 117034; '*Gaurav v. State of Punjab*', 2025 NCPHHC 118477; '*Gurjeet Singh v. State of Haryana*', 2025 NCPHHC 108958, wherein the Courts have released the accused on bail exclusively on the ground of prolonged incarceration coupled with the absence of substantial progress in the trial, holding that such continued detention violated the fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India. It was further submitted that co-accused Ankur has already been granted the concession of regular bail vide order dated



CRM-M-45134-2025

-4-

29.05.2023, whereas co-accused Yogender was granted the concession of anticipatory bail vide order dated 05.05.2023 by the Court of the learned Additional Sessions Judge, Jhajjar; co-accused Aashish Garg and Naresh Kumar have also been granted the concession of regular bail by a Coordinate Bench of this Court vide orders dated 04.09.2023 and 11.12.2023, passed in CRM-M-38557-2023 and CRM-M-42945-2023. Learned Counsel additionally asserted that petitioner has previously been released in interim bail from 22.02.2023 to 24.03.2023, which was further extended twice, from 24.03.2023 to 23.04.2023, and from 23.04.2023 to 06.05.2023, submitting that the petitioner has not misused the concession so granted. The petitioner has clean antecedents, and is not involved in any other case. Considering the same, Learned Counsel prayed for concession of bail to the petitioner who has already suffered incarceration of approximately more than 04 years and 04 months.

4. On the other hand, learned counsel for the respondent-UIO through Central Bureau of Narcotics, vehemently opposed the grant of regular bail to the petitioner, on the ground that the recovered contraband falls within the category of “commercial quantity”, therefore, in view of the statutory bar provided under Section 37 of the N.D.P.S. Act, the petitioner does not deserve the concession of bail. In support of her contentions, learned counsel has placed reliance on judgments passed by Hon’ble Supreme Court of India in cases titled as ***State By the Inspector of Police Vs. B. Ramu, 2024 INSC 114;*** and ***Narcotics Control Bureau Vs. Mohit Aggarwal, 2022 (18) SCC 374***

wherein the Hon’ble Apex Court has held that great caution must be exercised



while granting the extra-ordinary relief of bail in N.D.P.S. cases, especially wherein a huge quantity of narcotic substances is recovered. She further contended that there is a serious apprehension that, if released on bail, the petitioner may tamper with the evidence, by influencing or threatening witnesses, or may flee from the course of justice.

5. On instructions imparted to her by the official concerned, Learned counsel for the respondent-U.O.I. through Central Bureau of Narcotics, verifies that charges were framed on dated 15.04.2023, and only 02 of the total 24 prosecution witnesses have been partially examined so far.

6. Learned counsel for the petitioner further contends that the case law as relied upon by learned counsel for respondent-UOI, ***Mohit Aggarwal (supra)***, has already been dealt with by a Coordinate Bench of this Court vide order dated 04.09.2023 passed in case bearing no. CRM-M-38557-2023 titled as '***Aashish Garg Vs. State of Haryana and Another***' wherein bail was granted to the co-accused solely considering prolonged nature of trial, and custody above two years. Hence, the learned counsel prayed that the petitioner deserved the concession of regular bail in view of infringement of his fundamental right to life and personal liberty on account of protracted nature of trial and prolonged incarceration of more than 4 years and 4 months.

7. This Court has heard the submissions made by the learned counsel for the parties concerned, and perused the record.

8. Although, it is not under dispute that the recovered contraband falls within the ambit of "commercial quantity", thus attracting the rigor of

Section 37 of the N.D.P.S. Act, however, it is also not under dispute that



sufficient period of incarceration dilutes the stringent conditions of Section 37 of the N.D.P.S. Act. Gainful reference in this regard can be made to “**Rabi Prakash Versus The State of Odisha**”, **Special Leave to Appeal (Criminal) No.4169 of 2023**, wherein, the Hon’ble Supreme Court has discussed the effect of Section 37 of the NDPS Act in such like cases of long custody. The relevant portion of the aforesaid judgment contained in para No.4 is reproduced as under:-

*“4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent – State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. The 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(1)(b)(ii) of the NDPS Act.”*

9. With regard to apprehension of the petitioner fleeing from the process of law if released on bail, as contended by the Learned Counsel for the petitioner, he was earlier released on interim bail, and did not misuse the concession in any manner. Further, regarding tampering with the evidence or inducement of witnesses by the petitioner, since all the witnesses are official witnesses, so the risk of witness intimidation, inducement, or tampering is minimal; petitioner has been in custody since 29.06.2021, and despite



prolonged incarceration, the trial is only at the stage of prosecution evidence, as only 2 out of 24 prosecution witnesses have been examined so far, which renders a fatal blow to the petitioner's right to life and personal liberty. Although scheme of N.D.P.S. Act provides for stringent provisions regarding bail in cases covered under Section 37 of the Act, however, every statute must abide the fundamental principles laid down by the Constitution of India which forms the *grundnorm* of the legal system of the country. The Supreme Court in *V. Senthil Balaji v. The Deputy Director, 2024 INSC 739*, held that higher thresholds for granting bail in stringent penal statutes like the PMLA, UAPA, and NDPS Act cannot be a tool to keep an accused incarcerated without trial:

*25. ....such statutes contain provisions laying down higher threshold for the grant of bail. The expeditious disposal of the trial is also warranted considering the higher threshold set for the grant of bail. Hence, the requirement of expeditious disposal of cases must be read into these statutes. Inordinate delay in the conclusion of the trial and the higher threshold for the grant of bail cannot go together. It is a well-settled principle of our criminal jurisprudence that "bail is the rule, and jail is the exception." These stringent provisions regarding the grant of bail, such as Section 45(1)(iii) of the PMLA, cannot become a tool which can be used to incarcerate the accused without trial for an unreasonably long time.*

*26. There are a series of decisions of this Court starting from the decision in the case of **K.A. Najeeb**<sup>2</sup>, which hold that such stringent provisions for the grant of bail do not take away the power of Constitutional Courts to grant bail on the grounds of violation of Part III of the Constitution of India. We have already*



*referred to paragraph 17 of the said decision, which lays down that the rigours of such provisions will melt down where there is no likelihood of trial being completed in a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. One of the reasons is that if, because of such provisions, incarceration of an undertrial accused is continued for an unreasonably long time, the provisions may be exposed to the vice of being violative of Article 21 of the Constitution of India.*

Hence, balancing the petitioner's fundamental right to life and personal liberty with the stringent provisions of N.D.P.S. Act, this Court deems it appropriate to grant the concession of regular bail to the petitioner. Accordingly, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of his bail bonds and surety bonds to the satisfaction of concerned Trial Court/Duty Judge with such conditions as it may deem fit to secure his presence during trial.

10. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

11. Pending application(s), if any, also stand **disposed** of.

**22.01.2026**

Sonia Puri

**(SUBHAS MEHLA)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No