

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

215

CRM-M-48715-2025**Date of decision: 06.02.2026**

Amardeep Singh @ Mota

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Ripudaman Singh Sidhu, Advocate for the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J (ORAL)

1. Prayer in the instant petition filed under Section 483 of BNSS is for grant of regular bail in case FIR No.0063 dated 26.10.2022 under Sections 21(C),29/61/85 of NDPS Act, Sections 25,27,54,59 of Arms Act, 1959 (Section 489 IPC added later on) registered at P.S Kacha Pacca, District Tarn Taran.
2. Case that has been set up against the petitioner is that he along with co-accused Ram Singh (since granted concession of bail by Coordinate Bench of this Court vide CRM-M-63615-2024) was caught red handed while keeping in their possession 285 grams heroin (marginally more than commercial quantity).
3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. Statutory formalities were complied with by the police team. Notice under Section 50 of NDPS Act was also not issued before the petitioner was subjected to his personal search. Further, no independent witness was joined by the prosecution to prove the alleged recovery. Second leg of submission raised by learned counsel for the petitioner is that the trial is proceeding at a snail's pace for out of 14 cited prosecution witnesses, only 07 have been examined. Thus, likelihood of completion of trial in near future is



quite remote. It is further the submission of learned counsel that the petitioner, who has been in custody since 26.10.2022 deserves to be dealt with leniency and that simply because he is involved in three other cases of like nature, cannot be a ground in itself to deny the concession of bail. He has drawn the attention of this Court to order dated 29.07.2025 passed by Coordinate Bench of this Court in CRM-M-63615-2024 vide which co-accused, who is similarly situated as present petitioner was extended the concession of bail. It has thus been prayed that in view of submissions advanced, similar treatment be meted out to the present petitioner. He has placed reliance in this regard upon the judgment of Hon'ble Supreme Court in **Maulana Mohd Amir Rashadi vs. State of UP and another, 2012(1) RCR (Criminal) 586** to contend 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 cases.

4. Per contra, while opposing the prayer for grant of bail, learned State counsel submits that the petitioner is a habitual offender and is engaged in the business of sale and purchase of contraband. He is involved in three other cases of like nature. He further contends that in the light of contraband so recovered from the possession of petitioner and co-accused, rigors of Section 37 of NDPS Act would apply which bar grant of bail. If extended the concession of bail, likelihood of him committing the same offence yet again as also fleeing from the process of justice, cannot be ruled out. He thus prays for dismissal of the petition.

5. I have heard learned counsel for the parties and perused the recovered with their able assistance.

6. Before proceeding to discuss the rival contentions, it would be appropriate to refer to judgment 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.”

It would be appropriate to refer to judgment of Hon’ble Supreme Court wherein case titled as **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).

7. 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 26.10.2022 deserves a lenient view to be taken in his favour, for the likelihood of completion of trial is quite remote. Thus, in the facts and circumstances as mentioned 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 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 to the Trial Court forthwith and shall not change the same till the conclusion of



the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.

(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.

9. 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.

06.02.2026
manoj

(AARADHNA SAWHNEY)
JUDGE

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