

2026:PHHC:017232



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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-51030-2025  
Date of Decision: 04.02.2026

Mohit @ Akshay ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Sourabh Sheoran, Advocate, for the petitioner.

Mr. Vishal Singh, AAG, Haryana.

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AARADHNA SAWHNEY, J. (ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, co-accused in case bearing FIR No.170 dated 17.09.2024 registered against him, for commission of offences punishable u/s 20 of the NDPS Act at Police Station Nangal Chaudhary, Mahendergarh, has prayed for grant of bail.
2. Relevant facts emerging from documents on record be noticed hereinbelow:-

*“As per case set up by the prosecution on 17.09.2024, based on secret information, police team headed by SI Anil, CIA Mahendergarh were on patrolling duty in a Govt. vehicle, when they received a secret information that two persons travelling on a black coloured motorcycle bearing registration No.HR-34M-8875 were transporting substantial quantity of ‘Ganja leaves’ from Rajasthan to Satnali towards Nangal Choudhary Toll as also that they can be apprehended red handed while keeping in their illegal possession huge quantity of contraband. Relying on the information, notice u/s 42 the NDPS Act was prepared and sent to police authority. A naka was laid on the disclosed site. After waiting for sometime, police team noticed two young persons at disclosed site, who were in*

*possession of two bags. The motorcycle was intercepted. The person during the motorcycle introduced himself as Ashok (co-accused), whereas pillion rider disclosed his name as Mohit @ Akshay (present petitioner). After the requisite statutory formalities were complied with, petitioner and co-accused were searched in the presence of Gazetted Officer. On opening of the bags carried by them, huge quantity of Ganja leaves (Ganja Patti) was found therein. Contraband weighed about 25.314 Kg. (commercial quantity). Petitioner and his accomplice were arrested at the site. Resultantly, FIR No.170 dated 17.09.2024 u/s 20 of the NDPS Act, P.S. Nangal Chaudhary, Mahendergarh was came to be registered against them.”*

*On culmination of investigation, challan was prepared and filed in the Court.*

3. Petitioner-accused, who was arrested on 17.09.2024 moved an application for grant of bail before the learned Ld. Additional Sessions Judge, Narnaul. The same was dismissed vide order dated 22.08.2025. Aggrieved of which, present petition has been filed.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. The requisite statutory formalities were not complied with in letter and spirit by the police team at the site. The alleged recovery has been planted upon the petitioner. Despite having received secret information no efforts were made by the investigating team to join any independent person as a witness to the case proceedings.

The next leg of submission raised by learned counsel for the petitioner is that petitioner a young boy, who has been in custody since 17.09.2024, deserves a lenient view to be taken his favour as completion of trial in the near future is quite remote, for out of 16 witnesses, 03 have been examined till date. Thus, his further incarceration would not serve any useful purpose and would also be violative of Fundamental rights guaranteed under

Article 21 of the Constitution of India, including right to speedy trial and would, thus, also be against the principle of “*Bail is a general rule and incarceration is an exception*” as held by Hon’ble Supreme Court in ***Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131.***

Learned counsel further contends that co-accused namely Ashok Singh has already been granted concession of regular bail by a co-ordinate Bench of this Court vide order dated 28.10.2025 passed in CRM-M-26102-2025. Admittedly, petitioner is involved in four other cases, although he is on bail in all these cases. Primarily with this submission, prayer for allowing the petition has been made.

5. *Per contra*, learned State counsel while referring to the status report dated 30.09.2025 filed by way of affidavit of Mr. Dinesh Kumar, HPS, Deputy Superintendent of Police, Kanina, Distt. Mahendergarh has opposed the request for grant of bail on the ground that *Nakabandi* was laid by the police authorities after receiving an authentic secret information that petitioner and another co-accused were apprehended while keeping in their illegal possession of huge quantity of contraband. It is also the contention of the learned counsel that mandatory provision of NDPS Act were complied with after which recovery of 25.314 Kg. Ganja (commercial quantity) was effected from their conscious possession and contraband recovered in the present case falls within the ‘Commercial Quantity’. In view thereof, rigors of Section 37 of NDPS Act are attracted which bar the grant of bail, unless the twin conditions prescribed in the provision are satisfied. That apart learned State counsel contends that in view of the past antecedents of the petitioner, who is involved in four other cases, if lenient view is taken in his(p) favour, the likelihood of him indulging in similar offence and fleeing from process of justice cannot be

ruled out. Drug menace being on the rise needs to be dealt strictly. Dismissal of the petition has been prayed for.

6. I have heard the learned counsel for the parties and have gone through the documents on record.

7. 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.”*

In **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012(1) RCR (Criminal) 586**, Hon'ble Supreme Court upheld the order of the High Court in granting bail to the second respondent/accused on the ground that he had been in custody for a long period and the possibility of the trial being concluded in the near future was remote.

Further in ***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).

The evidentiary value of the testimonies and other evidence will be seen by the learned trial Court during the course of the trial in accordance with established principles of law. However, while adjudicating a plea for regular bail, this Court cannot remain oblivious to the circumstances under which the petitioner has been arraigned or implicated, including the nature of the allegations, the evidence linking the petitioner to the offence as well as the specific role attributed to the petitioner in the commission of the alleged offence. Mere presence of past criminal antecedents of the petitioner cannot be the sole consideration to decline the bail.

8. Having gone through the aforesaid judgments, it is clear that Constitutional liberty must override the statutory embargo. Guided solely by the said principle and in the light of the facts that have been brought on record, the Court is of the opinion that no useful purpose would be served by further detention of the petitioner, as the same, without the prospect of trial being

concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial and would, thus, also be against the principle of “Bail is a general rule and incarceration is an exception” as held by Hon’ble Supreme Court in **Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131.**

In the light of aforesaid discussion, this Court is of the opinion that further incarceration of petitioner would not serve any useful purpose. Resultantly, 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 shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) The petitioner will not tamper with the evidence during the trial.*
- (iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) 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.*
- (vi) 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.*
- (vii) The petitioner shall not in any manner misuse his liberty.*
- (viii) 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 trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.*
- (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.

**04.02.2026**  
*Parveen kumar*

**(AARADHNA SAWHNEY)**  
**JUDGE**

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