



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

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CRM-M-54383-2025

Date of decision: 04.02.2026

Mukhwak Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Vipin Mahajan, Advocate for the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J.(ORAL)

1. By virtue of the fifth petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No. 76 dated 13.03.2024 registered against him, for commission of offences punishable under Sections 21(C) and 29 of Narcotic Drugs and Psychotropic Substances, Act 1985 at Police Station Civil Lines Batala, Police District Batala, District Gurdaspur, has prayed for grant of bail.

2. In brief, the case of the prosecution is that on the basis of secret information received by police team headed by SI Harjinder Singh, a nakka was laid at the disclosed place and one Sushant Sharma, son of Dawarka Dass, resident of Tajiabia Gali Tibba Bazar, Batala was caught red handed while keeping in his illegal possession 5000 intoxicant tablets of Tramadol (average weight 379 mg/tablet) ('Commercial Quantity') without any valid license or permit. After the statutory formalities were complied with, FIR was lodged. During the course of interrogation, the aforesaid accused, disclosed the name of present petitioner, who was stated to be a supplier.

Thereafter, petitioner was arrested on 13.03.2024. On personal search of petitioner, 100 tablets of Tramadol, weighing 37.90 grams ('Intermediate



Quantity') were recovered from him.

Statements of witnesses were recorded. On culmination of investigation, challan was prepared and filed in the Court on 04.09.2024.

3. Petitioner/accused who was arrested on 13.03.2024 moved an application for grant of bail before the learned Judge Special Court, Gurdaspur. The same was dismissed vide order dated 03.04.2024. The first four bail petitions filed by petitioner before this Court was dismissed as withdrawn vide orders dated 10.05.2024, 28.10.2024, 27.02.2025 and 29.05.2025.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case, has been arrayed as an accused only on the basis of disclosure statement made by co-accused Sushant Sharma, who was allegedly caught red handed while keeping in their illegal possession 5000 intoxicant tablets of Tramadol, ('Commercial Quantity'). Further, the falsity of the case set up by the prosecution is apparent from the fact that though the alleged recovery of contraband was effected from busy public place but no efforts were made to join any independent person as a witness to the case proceedings.

Learned counsel fairly concedes that petitioner was involved in one more case of like nature (FIR No. 131 dated 11.07.2020 u/s 21 of NDPS Act) though he (P) stands acquitted on 15.02.2022.

It is further the submission of learned counsel that out of 13 prosecution witnesses, only 3 have been examined so far, thus, likelihood of completion of trial in the near future is quite remote. Hence, further incarceration of petitioner in custody, would not serve any useful purpose and would also be violative of his Fundamental rights guaranteed under



Article 21 of the Constitution of India. It has thus been prayed to take lenient view in petitioner's favour, who has been in custody since 13.03.2024, by extending him the concession of bail.

5. Short reply dated 30.11.2025 by way of affidavit of Mr. Sanjeev Kumar, PPS, Deputy Superintendent of Police, Sub Division City Batala, District Batala, has been placed on record. Opposing the petition, learned State Counsel submits that petitioner has been specifically named by the other accused, as the person who had supplied the contraband. Further, learned State counsel submits that the contraband recovered from the co-accused Sushant Sharma falls within the category of 'Commercial Quantity'. In view of the quantity of the contraband recovered from the co-accused and petitioner, as per learned State counsel the 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. Dismissal of the petition has been prayed for. 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 certain judgments 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.”

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).

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 not been involved in any other case of like nature and has been in custody since 13.03.2024 deserves a lenient view to be taken in his favour, for the likelihood of completion of trial is quite remote as out of 13 prosecution witnesses, only 03 have been examined till date. Thus, this Court is of the opinion that 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 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.

8. 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.

(AARADHNA SAWHNEY)
JUDGE

04.02.2026

Hemant

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