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CRM-M-54759-2025



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

**CRM-M-54759-2025
Date of decision: 12.02.2026**

NISHAN SHARMA

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. B.S. Bhalla, Advocate for the petitioner.

Mr. S.S. Nahar, DAG Punjab.

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RUPINDERJIT CHAHAL, J. (ORAL)

1. Prayer in the instant petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.305 dated 21.12.2022 registered under Section 22(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 27A and 29 of the NDPS Act and Sections 420, 468, 471, 120-B, 34 IPC added later on) at Police Station Division-A, District Police Commissionerate Amritsar.

2. Brief facts of the present case, as per the prosecution, are that on 21.12.2022, Inspector Rajwinder Kaur along with her fellow police officials on the basis of secret information, apprehended the petitioner. On search, the petitioner was found in conscious possession of 29,920 intoxicant tablets. Hence, the present FIR.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and he has no concern with the



said offence. He further contends that mandatory provisions of the NDPS Act were not complied with at the time of alleged search and seizure. He argued that the recovery of alleged contraband has already been effected from the petitioner and nothing more is to be recovered from him. The petitioner is in custody since 21.12.2022. The investigation in the case is complete, challan stands presented and charges have also been framed and out of 27 prosecution witnesses none has been examined. He submits that the co-accused persons have already been granted concession of bail by the Co-Ordinate Bench. He further submits that the trial will take a long time to conclude and no useful purpose would be served by keeping him behind the bars.

4. Learned State counsel has already filed the status report and has filed the custody certificate today which is taken on record. He has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature and that he was apprehended at the spot with the alleged contraband, which falls under the commercial quantity. He has further submitted that the petitioner is involved in multiple other cases, meaning thereby he is a habitual offender.

5. Having heard learned counsel for the parties at length and after perusing the record of the case, it is evident that the petitioner is in custody for the last more than 03 years and 01 month, investigation is complete; challan stands presented; charges have also been framed; out of 27 prosecution witnesses none has been examined and the fact that trial may take a long time to conclude, no useful purpose would be served by detaining him in further custody. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future would be violative of

his rights under Article 21 of the Constitution of India.



6. Reliance is placed upon a judgment in the case of ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, wherein Hon'ble Apex Court has held that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of her right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle "*bail is a rule*" and "*jail is an exception*".

7. A two-Judge Bench of the Hon'ble Supreme Court, in ***Nandlal Mondal @ Abhay Mondal v. State of West Bengal***, SLP (Crl.) No.12788/2023, granted bail to the accused after 18 months of incarceration on the ground of delay in trial in an NDPS matter involving commercial quantity of contraband. Similar relief has been granted by the Hon'ble Supreme Court in a series of judgments, namely: *Md. Aliul Islam @ Aliul Islam @ Alius v. State of West Bengal*, SLP (Crl.) No. 736/2024; *Debrata Mondal v. State of West Bengal*, SLP (Crl.) No.14970/2023; *Santarul Islam @ Santa v. State of West Bengal*, SLP (Crl.) No.13169/2023; *Indrajit Mondal @ Piglu v. State of West Bengal*, SLP (Crl.) No.8512/2023; *Narjul Islam @ Najbul Hoque v. State of West Bengal*, SLP (Crl.) No.14172/2023; *Subhashri Das @ Rana @ Subhoshree v. State of West Bengal*, SLP (Crl.) No.15284/2023; *Mithun Sk. & Anr. v. State of West Bengal*, SLP (Crl.) No.16598/2023; *Sk. Nasiruddin @ Nasirddin Sk. v. State of West Bengal*, SLP (Crl.) No.3402/2024; *Indadul Shah v. State of West Bengal*, SLP (Crl.) No.12670/2023; *Hanef Kharsani @ Hanef Sheikh v. Union of India*; *Ripon Seikh & Ors. v. State of West Bengal*, SLP (Crl.) No.16663/2023; *Moidul Sarkar v. State of West Bengal*, SLP (Crl.) No.15668/2023; *Saniya Bibi @ Soniya Bibi v. State of West Bengal*, SLP (Crl.) No.2354/2024; *Saddam*



Golam Murselim v. State of West Bengal, SLP (Crl.) No.6046/2024; and *Subhas v. State of West Bengal*, SLP (Crl.) No.8823/2019.

8. Moreover, prolonged detention of the petitioner, without any likelihood of the trial being concluded in the near future, would amount to a violation of their fundamental rights guaranteed under Article 21 of the Constitution of India. The Hon'ble Supreme Court, in ***Mohd. Muslim @ Hussain v. State (NCT of Delhi)*, 2023 AIR SC 1648**, while dealing with an NDPS case, held that the principles of fairness embodied under Article 21 override the statutory restrictions on grant of bail under Section 37 of the NDPS Act. Speaking through Justice S. Ravindra Bhat, the Court observed:

"20. The standard to be considered therefore, is one, where the court would look at the material in a broad manner, and reasonably see whether the accused's guilt may be proved. The judgments of this court have, therefore, emphasized that the satisfaction which courts are expected to record, i.e., that the accused may not be guilty, is only prima facie, based on a reasonable reading, which does not call for meticulous examination of the materials collected during investigation (as held in Union of India v. Rattan Malik). Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436A which is applicable to offences under the NDPS Act too (ref. Satender Kumar Antil supra). Having regard to these factors the court is of the opinion that in the facts of this case, the appellant deserves to be enlarged on bail.

21. Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable .



Jails are overcrowded and their living conditions, more often than not, appalling."

9. As regards the submission of learned State counsel that petitioner is involved in other/one more criminal case(s), reference is placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** in which, it is held 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/another case(s). The relevant portion of the said judgment is reproduced herein-below:-

"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."

10. In view of the above, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned. It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

(RUPINDERJIT CHAHAL)
JUDGE

12.02.2026
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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No