

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

**CRM-M-57195-2025
Date of Decision: 13.01.2026**

AMIT KUMAR DESWAL

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Sanjeev Kadian, Advocate
 for the petitioner.

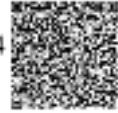
Mr. Gorav Kathuria, DAG, Punjab.

YASHVIR SINGH RATHOR, J. (Oral)

1. The second petition under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 has been filed for grant of regular bail to
the petitioner in case FIR No.69 dated 25.09.2023, under Sections
22-C/29/61/85 of NDPS Act, 1985 registered at Police Station Sadar
Rampura, District Bathinda.

2. Status report by way of an affidavit of Manoj Kumar, PPS,
Deputy Superintendent of Police, Sub-Division (Phul), Bathinda, District
Bathinda, filed on behalf of the State is taken on record. Registry is
directed to tag the same at an appropriate place.

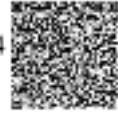
3. Brief facts of the prosecution case are that on 25.09.2023,
Anil Kumar, Sunil Kumar and Amit Kumar Deswal (petitioner) were
apprehended by the police party headed by SI Jagroop Singh on the basis
of suspicion. During their personal search, 10 vials of Max Coff, 25 vials
of Onerex, 900 tablets of Alprazolam and 800 tablets of Carisoprodol and



800 tablets of Tramadol were recovered, out of which, Alprazolam and Tramadol falls within the definition of narcotic substance and subsequently, they were arrested.

4. I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

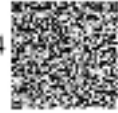
5. Learned counsel for the petitioner contended that the petitioner has been falsely implicated. Learned counsel next contended that the petitioner is in custody since 25.09.2023 and after completion of usual investigation, challan has been presented. Out of 14 prosecution witnesses, only 07 witnesses have been examined till date. However, the case is still at the stage of prosecution evidence and trial has not been concluded and conclusion of the trial is likely to take a long time. Learned counsel further contended that in view of his long incarceration, petitioner is entitled to be released on bail, as prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and the conditional liberty must override the statutory embargo created under Section 37 of the NDPS Act. Learned counsel next submitted that co-accused namely Sunil Kumar and Anil Kumar have already been released on bail by this Court vide orders dated 25.09.2025 and 19.11.2025 and petitioner is entitled to bail even on the ground of parity. In support of his contention, learned counsel for the petitioner has relied upon judgments passed in CRM-M-21794 of 2023 – **Sandeep Singh v. State of Punjab** decided on 05.05.2023, CRR-1785 of 2018 (O&M)- **Vicky Kaur v. State of Punjab**, decided on 13.08.2018, CRM-M-14029 of 2018 **Kamlesh v.**



Ram @ Jasuram v. State of Punjab, decided on 04.04.2025 and a judgment of Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No. (s).12788/2023 – **Nandalal Mondal @ Abhay Mondal v. The State of West Bengal**, judgment of Hon'ble Supreme Court passed in Criminal Appeal No.4883/2025 - **Santosh Pawar Vs. State of Chhattisgarh & Anr.** decided on 14.11.2025 and (2022) 10 SCC 52, **Satender Kumar Antil Vs. Central Bureau of Investigation**.

6. On the other hand, learned State Counsel has opposed the bail and argued that huge quantity of contraband has been recovered, which falls within the commercial quantity and rigors of Section 37 of NDPS Act are attracted, which bar grant of bail, unless twin conditions prescribed in the said provision are satisfied. However, in view of the huge recovery, it cannot be presumed that petitioner is not guilty of the offence or that he is not likely to commit the offence, in case he is released on bail. Learned counsel contended that the bail application be dismissed.

7. As per prosecution case, petitioner and his co-accused were found to be in conscious possession of 10 vials of Max Coff, 25 vials of Onerex, 900 tablets of Alprazolam and 800 tablets of Carisoprodol and 800 tablets of Tramadol. However, only 900 tablets of Alprazolam and 800 tablets of Tramadol falls within commercial quantity. The petitioner is in custody since 25.09.2023 and only 07 witnesses have been examined till date, out of 14 witnesses cited by the prosecution, and trial thus has been delayed and there is also no likelihood of the same being concluded soon. Hon'ble Supreme Court in 2023 Live Law (SC) 533, **Rabi Prakash**



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 of the NDPS Act. To the same effect is the law laid down by Hon'ble Supreme Court in 2024 (4) RCR (Criminal) 172, **Ankur Chaudhary v. State of Madhya Pradesh** 2023 AIR(SC) 1648, **Mohammad Muslim alias Hussain v. State (NCT of Delhi)** in which Hon'ble Supreme Court while granting regular bail to an accused, from whom commercial quantity of contraband was recovered, has held that grant of bail on the ground of undue delay in trial cannot be said to be fettered by Section 37 of the NDPS Act. A co-ordinate Bench of this Court has also held so in judgment reported as **Law Finder Doc Id #2770222 Garpawandeep Singh alias Bihari v. State of Punjab** decided vide judgment dated 27.08.2025 passed in CRM-M-19408 of 2025 wherein 260 grams of heroin was allegedly recovered. Hon'ble Supreme Court in Special Leave to Appeal (Criminal) No.12788/2023 titled **Nandalal Mondal alias Abhay Mondal v. The State of West Bengal**, vide judgment dated 03.01.2024 while taking into consideration the period of custody already undergone by the petitioner/under- trial, the fact that he does not have any criminal antecedents and also keeping in view the prolonged incarceration, ordered release of the petitioner on bail who was found in possession of 10,000 ml of codeine phosphate - a cough syrup which falls within the commercial quantity. Hon'ble Supreme Court in Criminal Appeal No.4883/2025 titled **Santosh Pawar Vs. State of Chhattisgarh & Anr. (Supra)**, has held that appellant who was being prosecuted for being in possession of commercial quantity of narcotic substance was entitled for bail in view of her incarceration for a period of 19 months. In **Satender**



Kumar Antil's case (supra), prolonged incarceration and inordinate delay engaged the attention of the Hon'ble Supreme Court of India, which considered the correct approach towards bail, with respect to several enactments, including Section 37 of NDPS Act. The Court expressed the opinion that Section 436A of Criminal Procedure Code, 1973 (which requires inter alia the accused to be enlarged on bail if the trial is not concluded within specified periods) would apply. Even otherwise, the co-accused namely Sunil Kumar and Anil Kumar, who were also apprehended along with the petitioner and whose case is identical to that of the petitioner, has already been released on bail by this Court orders dated 25.09.2025 and 19.11.2025 and the petitioner is entitled to be released on bail even on the ground of parity.

8. Therefore, taking into consideration the facts and circumstances of the present case and also the ratio of law laid down in afore-mentioned case laws, I am of the opinion that no useful purpose will be served by keeping the petitioner in custody and resultantly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bond and surety bond to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions. However, in addition to the terms and conditions that may be imposed by the trial Court/Duty Magistrate concerned, petitioner shall remain bound by the following conditions:-

- (i) Petitioner shall not misuse the concession of bail granted to him.
- (ii) Petitioner shall not tamper with any evidence, oral or documentary during the trial.



- (iii) Petitioner shall regularly appear before the trial Court and he will not commit any offence of similar nature while on bail.
- (iv) Petitioner shall deposit his passport, if any, with the trial Court.
- (v) Petitioner shall not in any manner delay the trial.

In case of breach of any of the aforesaid conditions or the conditions that may be imposed by the trial Court or upon any other sufficient cause, the State shall be at liberty to apply for cancellation of bail.

(YASHVIR SINGH RATHOR)
JUDGE

13.01.2026
Priyanka Thakur

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