



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

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CRM-M-71377-2025(O&M)

Date of decision: 10.02.2026

Rakesh Kumar Keshav @ Keshi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Ms. Riffi Birla, Advocate
for the petitioner.

Mr. Jatin Kundu, AAG, Punjab.

AARADHNA SAWHNEY, J.(ORAL)

1. This is the fifth petition under Section 483 BNSS filed by petitioner, an accused in case bearing FIR No. 301 dated 19.12.2022 registered against him, for commission of offences punishable u/s 21(C), 61, 85 of Narcotic Drugs and Psychotropic Substances, Act 1985 at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib, for grant of bail.
2. Relevant facts as emerging from documents on record be noticed hereinbelow:-

On 19.12.2022 based on a chance recovery, Police team headed by ASI Baldev Singh seized 900 intoxicant tablets, total weighing 372.69 grams of Tramadol (contraband falls within 'Commercial' Quantity) from the seat of unnumbered Alto Car being driven by Rakesh Kumar Keshav @ Keshi (present petitioner). On seeing the police party, though, petitioner was successful in running away. After the car and contraband were taken into possession statutory formalities were complied with, FIR was lodged. Thereafter, petitioner was arrested on 19.12.2022.

On culmination of investigation, challan was prepared and filed in the Court on 24.02.2023.

3. Petitioner/accused who was arrested on 19.12.2022 moved an



application for grant of bail before the learned Additional Sessions Judge, Sri Muktsar Sahib. The same was dismissed vide order dated 31.01.2023. The first four bail petitions filed by petitioner before this Court was dismissed as withdrawn vide orders dated 24.07.2023, 02.04.2024, 18.03.2025 and 30.07.2025.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. No recovery has been effected from his person. Further the falsity of the case set up by the prosecution is apparent from the fact that despite the alleged recovery of contraband was effected from busy public place but no efforts were made by IO to join any independent person as a 'witness' to the case proceedings. Moreover, petitioner is not the registered owner of the vehicle from which the contraband was allegedly recovered

Learned counsel fairly admits that this is the fifth petition for grant of bail filed by petitioner, but adds that none of the earlier petitions were disposed of on merits. It is further the submission of learned counsel that since the withdrawal of the last petition on 30.07.2025, only one PW has been examined, evidently trial is proceeding at a snail's pace. Learned counsel has also referred to the copies of interim orders passed by the learned Additional Sessions Judge, Sri Muktsar Sahib in support of her submissions that the likelihood of completion of trial in the near future is quite remote. Hence, submits that in the light of factual scenario of the case, the submissions advanced hereinabove 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.



Towards the end, learned counsel contends that petitioner, who has been in custody since 19.12.2022 deserves a lenient view to be taken in his favour by extending him the concession of bail. Prayer for allowing the petition has been made.

5. Status report by way of affidavit of Mr. Bachan Singh, PPS, Deputy Superintendent of Police, Sri Muktsar Sahib has been filed. Learned State counsel has opposed the request for grant of bail on the ground that contraband recovered from the petitioner is 'Commercial Quantity'. In view of the quantity of the contraband recovered from the 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. Further, the fact that he is involved in two other cases of like nature (FIR No.200 dated 28.11.2018 u/s 22/61/85 of NDPS Act in which he is on bail and FIR No.101 dated 27.07.2014 u/s 15/61/85 of NDPS Act in which he is convicted), no case for grant of bail is made out. 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).

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.

It is, thus, clear that criminal antecedents by themselves, is not a legal ground to deny the rigors of Section 37 of the NDPS Act, particularly in cases where the accused-petitioners are in custody for a long period.

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 19.12.2022 deserves a lenient view to be taken in his favour, for the likelihood of completion of trial is quite remote as out of 21 prosecution witnesses, only 04 have been examined till date and 02 have given up. The Court is, thus, of the opinion that in the facts and circumstances as mentioned above, his (P) further incarceration in custody would not serve any purpose. Resultantly, in view of discussion made herein above, petitioner is granted the concession of bail subject to his furnishing bail bonds and two local sureties 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

10.02.2026

Hemant

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