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

CRM-M-10378-2025 (O&M)
Date of decision: 22.07.2025

Jaspal Singh alias Deep

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Kirat Pal Dhaliwal, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This second petition has been filed under Section 439 of Cr.P.C. seeking regular bail in case bearing FIR No.237 dated 02.10.2022 under Section 21 of the NDPS Act registered at Police Station STF, Phase IV, Mohali, District SAS Nagar, Punjab. Earlier petition was dismissed as withdrawn on 29.07.2024.
2. The FIR (supra) was registered on the basis of allegations levelled in the FIR which is reproduced as under:-

'Today I along with you and ASI Sunish Riyat No. 3424/LDH, S/C Harpreet Singh Number 4C/718, Ct Lakhwinder Singh Number 3946/Ldh. and constable Simaratpal Singh no. 881/Khanna on government vehicle Bollero bearing no. PB-10-FH-1112, whose driver is ASI Mohammad Sadiq No. 614/Ldh, were present at Nirmal Palace Dhaba Road Area Police Station Division No. 06 Ludhiana in search of drug smugglers, then my special informer came to me at around 5:40 PM and informed that Jaspal Singh alias Deep son of Harminderpal, resident of House number 8916 street number 35 Kot Mangal Singh police station Shimlapuri presently residing as tenant in the house Paramjit Singh new Amar Nagar near Kartar Chowk opposite Mata Rani Mandir Police Station Dhaba Ludhiana who is doing the illegal business of supplying heroin for long time, today Jaspal Singh alias Deep above said has to go to supply heroin to his clients in his Swift car number PB 11 AW 4241 color black which is parked near his rented house street number 07 1/2 Mohalla New Amar Nagar Police Station Shimlapuri, if surveillance is carried out at street no. 07 1/2 Mohalla New Amar Nagar Police Station Shimlapuri Ludhiana then Jaspal Singh alias Deep can be caught with the said Swift car along with large quantity of heroin. The information



given to me by the informer is sure and reliable, but first I told you verbally, regarding which you first prepared information u/s 42 NDPS Act and sent by hand S/C Harpreet Singh number 4C/718 to the higher officials. Then I got recoded my statement to you as per the information of special informer. Statement has been heard, read, it is correct. Action be taken. Sd/ ASI Paramjit Singh No. 462/LDH verified Jagtar Singh ASI, Special task Force, Ludhiana Range dated 02.10.2022, police proceeding: Today I ASI along with ASI Paramjit Singh no. 462/Ldh. ASI Munish Riyat No. 3424/LDH, S/C Harpeet Singh Number 4C/718, Ct. Lakhwinder Singh number 3964/LDH and Constable Simarpal Singh No. 881/Khanna on government vehicle bearing number PB-10-FH-1112, whose driver is ASI Mohammad Sadiq number 614/Ldh, were present at near Nirmal Palace Dhaba Road Police Station Division Number 06 Ludhiana regarding search of drug smugglers then ASI Paramjit Singh told me verbally regarding the information of heroin received from special informer. Regarding which I have already prepared the information u/s 42 NDPS Act and sent to the office of Respected AIG/STF/LDH, Bhai Randhir Singh Nagar Ludhiana by hand S/C Harpreet Singh Number 4C/718. Then ASI Paramjit Singh got recorded his statement to me regarding the information of heroin received from Special Informer. Then I ASI got typed the statement on laptop through Ct Lakhwinder Singh number 3964/Ldh, who has heard the same, who after hearing his statement admitted the same. The statement was printed with the help of inverter and printer installed in the official vehicle, on which ASI Paramjit Singh put his signature in English, which got verified by me ASI. Accused Jaspal Singh alias Deep son of Harminderpal resident of House number 8916 street number 35 Kot Mangal Singh police Shimlapuri presently residing as tenant in the house of Paramjit Singh New Amar Nagar near Kartar Chowk opposite Mata Rani Mandir Police Station Shimlapuri Ludhiana by keeping the heroin in his possession and subsequently supplying to his customers has fulfils the offence of section 21 of NDPS Act. After writing the proceedings, printout has been taken and ruqa is being send to Police Station S.T.F. Phase-4 Mohali District SAS Nagar Mohali by hand Constable Simaratpal Singh for registering the FIR under the aforesaid offence against Jaspal Singh alias Deep. After registration of FIR, its number may be informed. Special reports be prepared and may be sent to Illaqa Magistrate and officials. Control room be informed. ASI Paramjit Singh after giving instruction has been sent from the spot. I ASI along with fellow employees is going to recovery and arrest the accused at street number 07 1/2 Mohalla New Amar Nagar Police Station Shimlapuri Near Kartar Chowk Opposite Mata Rani Mandir Police Station Shimlapuri Ludhiana. Today at area: Nirmal Palace Dhaba Road police station Division Number 06 Ludhiana AT 06.40, sd/- Jagtar Singh ASI, Special Task Force Ludhiana. Dated 02.10.2022, on receiving the ruqa the FIR under the aforesaid section has been registered against Jaspal Singh alias Deep and investigation is completed. Copy of FIR and information report is being sent to Respected Illaqa Magistrate and higher officials through post. Control room has been informed through wireless separately. Copy of FIR and original ruqa is being sent to Jagtar Singh ASI Special task Force Ludhiana range by hand Constable Simratpal Singh at the spot. MHC of police station has been instructed to complete the record.'



3. Learned counsel for the petitioner *inter alia* contends that the case of the petitioner is squarely covered by the judgment of the Hon'ble Supreme Court in ***Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal SLP (Crl.) No(s).12788/2023.*** He further submits that the FIR (*supra*) was registered as 2 kg and 800 grams of *heroin* was recovered from the possession of the petitioner. Further, the petitioner has suffered incarceration of more than 02 years and 09 months and till date, out of 16 prosecution witnesses, only 02 witnesses have been examined so far. The petitioner is not involved in any other case under the NDPS Act.

4. Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that complicity of the petitioner is duly established and the contraband recovered from the petitioner falls within the ambit of commercial quantity, as such, an embargo under Section 37 of the NDPS Act is attracted in the present case and thus, the petitioner is not entitled to any relief.

5. A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this



Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

6. After perusing the record of the case with the assistance of the learned State counsel, it transpires that the petitioner is behind the bars since last 02 years and 09 months. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as only 02 out of 16 prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner.

7. A two Judge bench of the Hon'ble Supreme Court in ***Nandlal Mondal @ Abhay Mondal (supra)*** released the accused on bail after completion of 18 months of custody on account of protracted trial in NDPS case involving commercial quantity of contraband. Reliance in this regard can also be placed upon the judgments rendered by the Hon'ble Supreme Court passed in ***Md. Aliul Islam @ Aliul Islam @ Alius Vs. The State of West Bengal SLP (Crl.) No. 000736/2024, Debrata Mondal Vs. State of West Bengal SLP(Crl.) No. 14970-2023, Santarul Islam @ Santa Vs. The State of West Bengal SLP(Crl.) No. 13169/2023, Indrajit Mondal @ Piglu Vs. The State of West Bengal SLP(Crl.) No. 8512/2023, Narjul Islam @ Najbul Hoque Vs.***



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The State of West Bengal SLP(Crl.) No. 14172/2023, Subhashri Das @ Rana @ Subhoshree Vs. The State of West Bengal SLP(Crl.) No.15284/2023, Mithun Sk. & Anr. Vs. The State of West Bengal SLP (Crl.) No.016598/2023, SK. Nasiruddin @ Nasirddin SK. Vs. State of West Bengal SLP (Crl.) No.003402/2024, Indadul Shah Vs. The State of West Bengal SLP(Crl.) No. 12670/2023 , Hanef Kharsani @ Hanef Sheikh Vs. Union of India, Ripon Seikh & Ors. Vs. State of West Bengal SLP(Crl.) No. 16663/2023, Moidul Sarkar Vs. The State of West Bengal SLP(Crl.) No. 15668/ 2023, Saniya Bibi @ Soniya Bibi Vs. The State of West Bengal SLP(Crl.) No. 2354/2024, Saddam Hossain Vs. State of West Bengal SLP(Crl.) No. 15496/2023, Bijon SK @ Golam Murselim Vs. The State of West Bengal SLP (Crl.) No. 6046/2024 and Subhas Vs. The State of West Bengal SLP(Crl.) No. 8823/2019.

8. Further, the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. 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. A two Judge bench of the Hon'ble Supreme Court in *Mohd. Muslim @ Hussain vs. State (NCT of Delhi) 2023 AIR SC 1648*, has held that the concept of fairness enshrined under Article 21 of the Constitution of India would trump the bar on granting bail in cases involving commercial quantity of contraband, as stipulated by Section 37 of the NDPS Act. Speaking through Justice S. Ravindra Bhat, has opined as follows:



“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.**” (emphasis added)

9. In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Jaspal Singh @ Deep is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

10. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

22.07.2025

Neha

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