



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

**236**

**CRM-M-28732-2025**  
**Date of decision: 24.07.2025**

Sagar

....Petitioner

Versus

State of Haryana

....Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Deepender Singh, Advocate  
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

**HARPREET SINGH BRAR J. (Oral)**

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.436 dated 23.06.2023 registered under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Urban Estate Hisar, District Hisar.

2. Learned counsel for the petitioner submits that inadvertently the fact about withdrawal of the first petition has not been mentioned in the present petition and the first petition filed by the petitioner, seeking the same relief, was dismissed as withdrawn on 15-11-2023. This second petition has been filed on the ground that the case of the petitioner is now squarely covered by the judgment of Hon'ble Supreme Court in *Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal SLP (Crl.) No(s).12788/2023*.



3. As per the prosecution case, the petitioner has been found in possession of 168 bottles of Codin Phosphate and Triprolidine Hydrochloride Syrup on 23.06.2023. The total weight of contraband lying in 168 bottles comes to 16.8 Kgs, which is more than the commercial quantity. Hence, the impugned FIR was registered.

4. Learned counsel for the petitioner *inter alia* contends that in violation of the law laid down by the Hon'ble Supreme Court in ***T.T. Antony vs State of Kerala, 2001(3) RCR (Criminal) 436***, the petitioner has been booked in two separate FIRs. The petitioner is already on bail in the first FIR as discernible from Annexure P-18 passed by the Coordinate Bench of this Court in CRM-M No.57819 of 2024 on 15.05.2025. Further, the petitioner has approached this Court by filing a petition i.e. CRM-M No.28478 of 2024 and the Coordinate Bench of this Court finding force in the arguments advanced by learned counsel for the petitioner and by relying upon ***T.T. Antony's case (supra)*** has ordered the stay of proceedings in the FIR (supra). The petitioner has undergone the actual custody of 02 years and 29 days and a great prejudice has already been caused to the petitioner for nominating him in two separate FIRs for an offence committed in the course of one transaction. Further, the entire case of the prosecution is based upon the disclosure statement of co-accused Rohan, which has no evidentiary value in the eyes of law as the same is hit by Sections 25 and 26 of the Evidence Act. The FIR (supra) has been registered against the petitioner only with a view to harass him. Moreover, only one FIR is to be



registered in respect of a cognizable offence and for an incident giving rise to one or more cognizable offences; multiple FIRs for the same occurrence or incident, cannot be registered. The petitioner is accused of dealing in narcotic substance and 168 bottles of cough syrups have been recovered from him.

5. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner is specifically named in the FIR (supra) and 163 bottles of cough syrups have been recovered from the conscious possession of the petitioner, which falls within the ambit of commercial quantity. The petitioner is also involved in one more FIR and as such, the petitioner is not entitled to any relief, however, he could not controvert the fact that the petitioner was nominated in the first FIR on the basis of disclosure statement made by co-accused Rohan and the Coordinate Bench of this Court has already stayed the proceedings before the learned trial Court in the FIR (supra).

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 02 years and 29 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress.



7. A two Judge bench of the Hon'ble Supreme Court in ***Nandlal Mondal @ Abhay Mondal's case (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. 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 petitioners in further detention without the prospect of the trial being concluded in the near future, would be violative of their 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. A two Judge Bench of Hon’ble Supreme Court in **“Satender Kumar Antil vs. 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.”*

10. Further keeping in view the law laid down by the Hon’ble Supreme Court of India in **“Prabhakar Tewari vs. State of U.P. and another” 2020 (1) R.C.R. (Criminal 831)** and **“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”, 2012 (2) SCC 382**, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.



11. In view of the above discussions, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Sagar is ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

12. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**24.07.2025**

*yakub*

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No