



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

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**CRM-M-37298-2025
Date of decision: 22.07.2025**

Hardeep Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kulwinder Singh Dhillon, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this 3rd petition filed under Section 439 of Cr.P.C., is for grant of regular bail to the petitioner in FIR No.92 dated 27.09.2023 registered under Sections 22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Garhdiwala, District Hoshiarpur. The 2nd petition filed by the petitioner seeking the same relief was dismissed as withdrawn on 12.08.2024.

1.1. Learned counsel for the petitioner submits that this 3rd petition, seeking regular bail to the petitioner, has been filed with the changed circumstances as the case of the petitioner is squarely covered by judgment of Hon'ble Supreme Court in *Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal SLP (Crl.) No(s).12788/2023*.

2. As per the prosecution case, on 27.09.2023, while on patrolling duty, ASI Namdev Singh and his team received a secret



information that Hardeep Singh (petitioner herein) was selling intoxicant injections from his barber shop. Acting on this tip, the police conducted a raid at the disclosed location and apprehended Hardeep Singh. During the search, they found a polythene envelope containing 13 Buprenorphine injections from his pocket. Based on this recovery, the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is a first time offender with no prior criminal record. The alleged recovery of Buprenorphine injections is minimal and does not indicate involvement of the petitioner in large-scale trafficking or commercial sale. There is no concrete evidence that the petitioner was supplying these injections to others.

4. Learned counsel for the petitioner further submits that the petitioner is in custody since 27.09.2023. There are total 10 prosecution witnesses cited in the list of witnesses, out of which, 04 PWs have been examined till date and 02 PWs have been given up and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the petitioner on the ground that the alleged recovery of contraband was effected from the conscious possession of the petitioner, which falls within the ambit of commercial quantity. The petitioner is involved in one more case, registered under the NDPS Act and as such, the petitioner is not entitled to any relief, however, he could not controvert the fact that the petitioner is in custody since 27.09.2023.



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 since 27.09.2023. 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. Out of 10 prosecution witnesses, 04 PWs have been examined so far and 02 PWs have been given up.

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 petitioner 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 Hardeep Singh 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

22.07.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No