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

**Date of decision: 29.07.2025**

**1. CRM-M-50475-2023 (O&M)**

**Krishna**

**... Petitioner**

**Vs.**

**Union of India through Narcotics Control Bureau, Chandigarh**

**... Respondent**

**2. CRM-M-41210-2023 (O&M)**

**Shyam Singh**

**... Petitioner**

**Vs.**

**Union of India through Narcotics Control Bureau, Chandigarh**

**... Respondent**

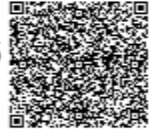
**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Nikunj Dhawan, Advocate and  
Ms. Farheen Bajwa, Advocate  
for the petitioner (in CRM-M-50475-2023).

Mr. Yashpal Thakur, Advocate  
for the petitioner (in CRM-M-41210-2023).

Mr. Sourabh Goel, Special Public Prosecutor  
for the respondent-NCB.

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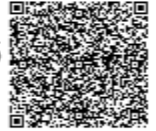
**HARPREET SINGH BRAR, J. (ORAL)**

1. Vide this common order, both the aforementioned petitions filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking regular bail to petitioners Krishna and Shyam Singh, in case bearing FIR No.6 dated 21.01.2021 under Sections 8/20/28/29/60 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station NCB, Chandigarh.

2. However, for the sake of brevity, the facts are culled out from CRM-M-50475-2023.

3. The FIR (*supra*) was registered on the basis of secret information received on 21.01.2021, to the effect that the petitioners along with co-accused Lakhmi Chand and Jai Dev had received huge consignment of charas from one Nimat Ram and they all were engaged in charas trafficking and would cross Kharar between 10.00 hours to 12.00 hours on the same day in Santro car bearing registration No.DL-4-CAJ-1560 and would further move towards Uttar Pradesh. Finding the said information as reliable, requisite formalities were carried out. The accused were arrested on the same day i.e. 21.01.2021 and recovery of 6.840 kgs of charas was effected from them.

4. Learned counsel for petitioner Shyam Singh submits that this is second attempt made by the petitioner seeking regular bail, as first petition i.e. CRM-M-42892-2021 was disposed of vide order dated 21.11.2022 with a



direction to learned trial Court to conclude the trial expeditiously. Present petition i.e. CRM-M-41210-2023 has been filed due to long incarceration of the petitioner.

5. Learned counsel for the petitioners contend that the petitioners are having clean antecedents and they are not involved in any other case. Both the petitioners have suffered the incarceration of 04 years, 03 months and 22 days. Their cases are squarely covered by judgment of the Hon'ble Supreme Court in *Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal SLP (Crl.) No(s).12788/2023*.

6. *Per contra*, learned Special Public Prosecutor appearing on behalf of the respondent-NCB opposes the prayer for grant of regular bail to the petitioners on the ground that the trial is likely to conclude. He refers to the report dated 13.05.2025 submitted by learned Additional Sessions Judge, SAS Nagar, endorsed by learned District & Sessions Judge, SAS Nagar on 14.05.2025 and submits that out of total 16 prosecution witnesses cited in the list of witnesses, the prosecution has examined all its witnesses and only cross-examination of the Investigating Officer Sanjay Kumar Acharya is pending. He further submits that the contraband, which was recovered from possession of the petitioners, falls within the ambit of commercial quantity. As such, at this stage, when the trial is likely to conclude and also in view of embargo created under Section 37 of NDPS Act, the petitioners are not entitled to any relief.

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7. Having heard learned counsel for the parties and after perusing the record of the cases with their able assistance, it transpires that the petitioners are behind bars since 21.01.2021 and all the 16 prosecution witnesses have been examined except the Investigating Officer, whose cross-examination remains pending.

8. Be that as it may, the petitioners shall retain the right to lead evidence in their defence as it is an integral part of the right to free and fair trial, enshrined under Article 21 of the Constitution of India. The principles of natural justice dictate that no one shall be condemned unheard, as such it must be ensured that a fair and proper opportunity is provided to the accused to lead defence. Moreover, culpability of the accused, if any, shall be determined during the trial after both parties have had an opportunity to present their case. As such, detaining the petitioners further, without the prospect of the trial being concluded within reasonable dispatch and denying them the opportunity to defend themselves, would be in direct violation of their rights under Article 21 of the Constitution of India.

9. A two Judge Bench of the 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 as under: -

*“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*

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*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. In view of the above, both these petitions are allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioners Krishna and Shyam Singh are ordered to be released on regular bail during trial on their furnishing bail/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

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

12. Photocopy of this order be placed on the file of connected case.

29.07.2025

*vishnu*

[ **HARPREET SINGH BRAR** ]  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No