



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

CRM-M-23045-2025
Date of decision: 04.09.2025

GURINDER SINGH

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Pawandeep Singh, Advocate and
 Mr. Karandeep Singh Dargan, Advocate
 for the petitioner.

Mr. G.S. Dhaliwal, AAG, Punjab.

YASHVIR SINGH RATHOR, J. (Oral)

1. This is second petition filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No.131 dated 08.05.2023, Police Station STF, SAS Nagar, District Mohali registered under Section 21-C, 25, 27-B, 29, 30, 32, 35 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') and Sections 25/54/59 of Arms Act.

2. Brief facts of the prosecution case are that on 08.05.2023, Vavinder Kumar, DSP, S.T.F. Border Range Amritsar received secret information to the effect that one Akashdeep Singh s/o Gurinder Singh deals in sale of heroin at a very large scale in the area around Batala and in case, he is apprehended, huge quantity of contraband can be recovered



from him. Thereafter, on 09.05.2023, Police party conducted a raid at a Gym, where Akashdeep Singh was found sitting but on seeing the Police party, he ran away by throwing a polythene, which contained about 155 grams of heroin, which was sealed and taken into possession. During investigation, said Akashdeep Singh along with his brother Gagandeep Singh was apprehended on 16.05.2023 and on interrogation, Akashdeep Singh suffered disclosure statement to the effect that he has kept about 900/950 grams of heroin in the bed-box in his house and it is only he and his father, who know about the same and he can get the same recovered. Thereafter, the Police party accompanied by both Akashdeep Singh and Gagandeep Singh reached the house of the petitioner, where one person tried to escape but he was apprehended, who disclosed his name as Gurinder Singh. He also disclosed to the police that he and his son Akashdeep Singh have hidden some heroin in the bed-box and they can get the same recovered. Thereafter, in pursuance of disclosure statement of co-accused Akashdeep Singh and Gurinder Singh, they got recovered 950 grams of heroin from the disclosed place. After completion of investigation, final report was presented in the Court for trial.

3. Upon notice, the State Counsel has appeared and has opposed the bail. Both the parties have been heard and material placed on the file has been perused.

4. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. Initially, the raid was conducted at the Gym on 09.05.2023, from where co-accused



Akashdeep Singh had escaped after throwing some contraband and the house is situated behind the Gym but the same was not searched on that day. Petitioner is the father of said Akashdeep Singh and recovery is shown to have been effected on 16.05.2023. Petitioner was earlier involved in another case of NDPS Act, which has already been disposed of. Petitioner is in custody for the last 2 years and 3 months and out of total 13 witnesses cited by the prosecution, only 2 witnesses have been examined till date. The trial is likely to take some more time to conclude and in view of his prolonged incarceration, petitioner is entitled to be released on bail.

5. On the other hand, learned State Counsel has opposed the bail and argued that huge quantity of heroin has been recovered, which falls within the commercial quantity and rigors of Section 37 of NDPS Act are attracted, which bar grant of bail, unless twin conditions prescribed in the said provision are satisfied. However, in view of the huge recovery, it cannot be presumed that petitioner is not guilty of the offence or that he is not likely to commit the offence, in case he is released on bail. Learned counsel contended that the bail application be dismissed.

7. As per allegations, petitioner was found to be in possession of 950 grams of heroin. Petitioner is in custody since 16.05.2023 and only 02 witnesses have been examined till date and trial thus has been delayed and there is also no likelihood of the same being concluded soon. Hon'ble Supreme Court in 2023 Live Law (SC) 533, **Rabi Prakash Vs.**



State of Odhisha has held that prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37 of the NDPS Act. To the same effect is the law laid down by Hon'ble Supreme Court in 2024 (4) RCR (Criminal) 172, **Ankur Chaudhary Vs. State of Madhya Pradesh** and 2023 AIR(SC) 1648, **Mohammad Muslim alias Hussain Vs. State (NCT of Delhi)** in which Hon'ble Supreme Court while granting regular bail to an accused, from whom commercial quantity of contraband was recovered, has held that grant of bail on the ground of undue delay in trial cannot be said to be fettered by Section 37 of the NDPS Act. A co-ordinate Bench of this Court has also held so in judgment reported as Law Finder Doc Id #2770222 – **Garpawandeep Singh alias Bihari Vs. State of Punjab** decided vide judgment dated 27.08.2025 passed in CRM-M-19408 of 2025 wherein 260 grams of heroin was allegedly recovered. Hon'ble Supreme Court while deciding Special Leave to Appeal (Criminal) No.12788/2023 titled **Nandalal Mondal alias Abhay Mondal Vs. The State of West Bengal**, vide judgment dated 03.01.2024 while taking into consideration the period of custody already undergone by the petitioner/under-trial, the fact that he does not have any criminal antecedents and also keeping in view the prolonged incarceration, ordered release of the petitioner on bail who was also found in possession of 10,000 ml of codeine phosphate - a cough syrup which falls within the commercial quantity. In



CRM-M-37827/2022, titled **Parkash Sahu Vs. State of Punjab** decided vide judgment dated 14.12.2002, a co-ordinate Bench of this Court also granted bail on the ground of delayed trial in which 02 kg. 600 grams of opium was recovered which was marginally above the commercial quantity of 02 kg 500 grams.

8. Therefore, taking into consideration the facts and circumstances of the present case and also the ratio of law laid down in afore-mentioned case laws, I am of the opinion that no useful purpose will be served by keeping the petitioner in custody and resultantly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bond and surety bond to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions. However, in addition to the terms and conditions that may be imposed by the trial Court/Duty Magistrate concerned, petitioner shall remain bound by the following conditions:-

- (i) Petitioner shall not misuse the concession of bail granted to him.
- (ii) Petitioner shall not tamper with any evidence, oral or documentary during the trial.
- (iii) Petitioner shall regularly appear before the trial Court and he will not commit any offence of similar nature while on bail.
- (iv) Petitioner shall deposit his passport, if any, with the trial Court.
- (v) Petitioner shall not in any manner delay the trial.



In case of breach of any of the aforesaid conditions or the conditions that may be imposed by the trial Court or upon any other sufficient cause, the State shall be at liberty to apply for cancellation of bail.

(YASHVIR SINGH RATHOR)
JUDGE

04.09.2025
Priyanka Thakur

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No