



Mr. Akshay Bansal, Advocate
for the petitioner (in CRM-M-7596-2025).

Mr. L.S. Sekhon, Advocate
for the petitioner (in CRM-M-19876-2025).

Mr. Subhash Godara, Addl.A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This common order shall dispose of the aforementioned petitions as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from CRM-M-17034-2025.
2. The present petition(s) has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.126 dated 27.06.2023 under Sections 22/29 of the NDPS Act registered at Police Station Lehra, District Sangrur. This is third petition filed by petitioner-Vishant Chauhan. Petitioner-Raj Kumar Vats in CRM-M-14943-2025, petitioner-Jarnail Singh @ Mithan in CRM-M-7596-2025 and petitioners-Buta Singh and Balbir Singh (in CRM-M-19876-2025 & CRM-M-23513-2025) are seeking regular bail in their fourth, first and second attempt, respectively. Earlier petitions were withdrawn as not pressed.
3. Summarily, the facts of the case are that at around 01:30 P.M., when the police party reached 02 kilometers ahead of village Jhaloor towards village Dhindsa in connection with patrolling and search of suspicious elements, two persons were seen coming from opposite side on a black colour motorcycle. On seeing the police party, they got perplexed and tried to turn back. The pillion rider threw a black coloured polythene on the *kucha* passage and on suspicion, the police party stopped the vehicle and the accused persons were apprehended and disclosed their names as Jasvir Singh @ Kala who was



the driver of the motorcycle and Balbir Singh @ Billu who was the pillion rider. Thereafter, the accused/petitioners were arrested on the basis of disclosure statement made by co-accused and hence, the present case.

4. Learned counsel for the petitioner(s) *inter alia* contends that the accused/petitioner, namely, Balbir Singh @ Billu, was apprehended along with co-accused, Jasvir Singh @ Kala and on his disclosure statement, Jarnail Singh @ Mithan was nominated as an accused and Buta Singh, Vishant Chauhan and Raj Kumar Vats have been nominated as an accused on the basis of disclosure statement made by co-accused, namely, Jarnail Singh, which has no evidentiary value in the eyes of law as the statements recorded by the police under Section 67 of NDPS Act would be hit by Sections 25 and 26 of Indian Evidence Act. He further submits that the custody undergone by the petitioners as well as the respective recovery effected from them is mentioned as under:-

Sr. No.	Names of Accused	Recovery	Custody
1.	Vishant Chauhan	4500 tablets of TRAMADOL	01 year, 09 months & 12 days
2.	Raj Kumar Vats	2000 tablets of TRAMADOL	02 years & 18 days
3.	Jarnail Singh @ Mithan	950 tablets of TRAMADOL	02 years & 20 days
4.	Buta Singh	1740 tablets of ALPRASAFE & 1200 tablets of ALPRASAFE	02 years & 20 days
5.	Balbir Singh @ Billu	1500 tablets of TRAMADOL & 1850 tablets of ALPRASAFE	02 years & 01 months

He further submits that the case of the petitioner(s) is 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.***

5. The learned State counsel has filed custody certificates in the Court today which are taken on record and per contra, opposes the grant of regular bail to the petitioner(s) on the ground that the recovery involved in the



present case falls under the category of commercial quantity, as such, an embargo under Section 37 of the NDPS Act would apply in the present case and thus, the petitioner(s) are not entitled to any relief.

6. 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."

7. After perusing the record of the case with the assistance of the learned State counsel, it transpires that the petitioners are behind the bars since 12.07.2023; 12.07.2023; 07.07.2023; 04.07.2023 and 01.07.2023, respectively. 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 06 witnesses out of 19 prosecution witnesses have been examined so far and 06 witnesses have been given up. 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(s).

8. A two Judge bench of the Hon'ble Supreme Court in **Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal SLP (Crl.) No(s).12788/2023** 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*.

9. 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 petitioners-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)*

10. In view the above, the present petitions are allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioners-Balbir Singh @ Billu, Jarnail Singh @ Mithan, Buta Singh, Vishant Chauhan and Raj Kumar Vats, are ordered to be released on regular bail during trial on their furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court. Since petitioners, namely, Vishant Chauhan and Jarnail Singh @ Mithan are on interim bail, they are directed to appear before the learned Illaqa Magistrate/trial Court within two weeks.



11. 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.
12. A photo copy of this order be placed on the file of connected cases.

(HARPREET SINGH BRAR)
JUDGE

24.07.2025

Neha

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