

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA***Cr.MP(M) No. 130 of 2025******Announced on: 11th April, 2025***

Missu Ram

.....Petitioner

Versus

State of Himachal Pradesh

.....Respondent

Coram**Hon'ble Mr. Justice Ranjan Sharma, Judge**¹ *Whether approved for reporting? No*

For the petitioner: Mr. Vijender Katoch, Advocate.

For the respondent: Mr. Pranay Pratap Singh, Additional Advocate General.

Ranjan Sharma, Judge

Bail petitioner, Missu Ram [being in custody 19.05.2023] has approached this Court, under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 **[hereinafter referred to as BNSS]** seeking regular bail originating from the *FIR No. 98 of 2023 dated 19.05.2023*, registered with Police Station Baijnath, District Kangra [H.P.], under *Sections 20 and 29 of the Narcotic Drugs and Psychotropic Substances Act*

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

(referred to as NDPS Act) and under Section 181 of the Motor Vehicles Act.

FACTUAL MATRIX

2. Case set up by Mr. Vijender Katoch, Learned Counsel is that prosecution case is that on 18.5.2023 at around 09.45 p.m, while the Police Party headed by Inspector Gaurav Bhardwaj alongwith other Police Officials were on patrolling duty near GMS Kyori, a secret information was received that two persons were selling Charas near Jagarkot Ajay Pal Devta Temple. On receiving this information, Inspector Gaurav Bharadwaj and two Independent witnesses namely Pradhan Shiv Kumar and Up-Pradhan Rovan Lal reached village Sail and thereafter, IO Gaurav Bharadwaj in his private car left for Jagarkot Ajay Pal Devta Temple and the Independent witness also went to said temple spot in separate vehicle. On reaching Jagarkot Ajay Pal Devta Temple, at around 10.20 p.m, police party found one white Eon Car, without registration, *occupied by three persons* and one black

pulsar motorcycle bearing No HP-33-7650 was found parked. On inquiry, the person sitting on driver seat disclosed his name Tilak Raj, the person sitting on co-driver seat revealed his name as Mehar Singh and the person sitting on rear seat of the vehicle disclosed his name Missu Ram [bail petitioner]. On checking of Eon Car, the police found one carry bag printed with green and red flowers from underneath the driver's seat and after untying bag, the police recovered sticks like black substance i.e. Charas-Cannabis and upon weighing it came out to be 1.509 Kgs. The allegedly recovered contraband was kept in same carry bag and was sealed with eight seals and documents of Car and Motorcycle were also seized and after completing all the codal formalities, the rukka was sent leading to registration of FIR.

2(i). The matter was investigated and the Challan was presented before the jurisdictional Court. It is averred that the allegations were totally false and the bail

petitioner [Missu Ram], was not connected with the alleged offence. It was stated that the petitioner was falsely implicated. It is submitted that nothing was in fact recovered from conscious possession of bail petitioner. It is averred that no fruitful purpose will be served by keeping him in judicial custody.

2(ii). Apart from this, the bail petitioner has given certain undertakings that he shall participate in the investigation and trial thereafter and shall not cause any inducement, threat or promise to any witness or person acquainted with the case and shall not tamper with the evidence in any manner. It is averred that in case of release, the bail petitioner shall abide by all other conditions which may be imposed by this Court.

In above backdrop, the instant petition has been filed by the bail petitioner, [Missu Ram], with the prayer for granting bail.

STAND OF STATE AUTHORITIES IN THE STATUS REPORTS

3. Upon issuance of notice the State Authorities have filed the Status Report dated 27.02.2025 on instructions of SHO Police Station Baijnath, District Kangra, (HP) and the matter was adjourned by Learned Counsel for petitioner and the matter was finally heard on 04.04.2025.

3(i). Status Report narrates the prosecution story that on 18.05.2023, at around 09.40 p.m, the Police Party headed by Inspector Gaurav Bhardwaj received a secret information that a white Eon Car being occupied by two persons and one motorcycle was parked near Jagarkot Ajay Pal Devta Temple and they were selling Charas. After completing formalities under Section 42 (2), Inspector Gaurav Bharadwaj reached village Sail, at 10.10 pm and two Independent witnesses namely Pradhan Shiv Kumar and Up-Pradhan Rovan Lal also reached there in pick up No HP-53-6112. Thereafter, IO Gaurav Bharadwaj left for Jagarkot Ajay Pal Devta Temple in his private car and the Independent witness also went to the said temple spot in

their separate vehicle. On reaching Jagarkot Ajay Pal Devta Temple, at around 10.20 p.m, the police party found the white Eon Car with three occupants and one black pulsar motorcycle bearing No. HP-33A-7650 parked there. On inquiry, the person sitting on driver seat disclosed his name Tilak Raj, the person sitting on co-driver seat revealed his name as Mehar Singh and the person sitting on rear seat of the vehicle disclosed his name Missu Ram [bail petitioner]. On checking of Eon Car the police found one carry bag printed with green and red flowers from underneath the driver's seat. On untying the bag, the police recovered sticks like black substance and after smelling it appears to be Charas-Cannabis and on weighing, it came out to be 1.509 Kgs. The recovered Charas was kept in the same carry bag and was sealed and after completing codal formalities, rukka was sent leading to registration of FIR.

3(ii). Pursuant to registration of FIR, petitioner was arrested on 19.5.2023 and bail petitioner was

made to undergo medical examination. It is averred that an *inventory was prepared under Section 52-A of NDPS Act by magistrate after taking out two samples of 26 gms each and sealed with court seals*, which were sent to SFSL at Junga for analysis. Status report indicates that statements of witnesses were recorded under Section 161 Cr.P.C. Status Report further indicates that Investigation is complete and the Challan-Final Police Report has been presented before the Learned ASJ Palampur on 8.8.2023 till date out of 22 PWs, 14 PWs were examined at the time of filing of bail.

In this background, Status Report, has been filed by the State Authorities, with the prayer for dismissing the bail petition.

4. Heard, Mr. Vijender Katoch, Learned Counsel for the bail-petitioner and Mr. Pranay Pratap Singh, Learned Additional Advocate General for Respondent-State.

MANDATE OF LAW ON BAIL:

5. Broad parameters have been mandated by the Hon'ble Supreme Court, regulating the bail in the cases of **Gurbaksh Singh Sibbia versus State of Punjab** (1980) 2 SCC 565, **Ram Govind Upadhyay versus Sudarshan Singh** (2002) 3 SCC 598; **Kalyan Chandra Sarkar versus Rajesh Ranjan**, (2004) 7 SCC 528; **Prasanta Kumar Sarkar versus Ashish Chatterjee**, (2010) 14 SCC 496; reiterated in **P. Chidambaram versus Directorate of Enforcement**, (2019) 9 SCC 24, **Sushila Aggarwal versus State-NCT Delhi**, (2020) 5 SCC 01; **CBI versus Santosh Karnani** (2023) 6 SCALE 250; which have been reiterated by the Hon'ble Supreme Court in **State of Haryana versus Dharamraj**, 2023 SCC Online SC 1085, that *bail is to be granted* where the allegations are frivolous or groundless and incase neither any prima facie case nor reasonable grounds exists to believe or point towards the accusation. However, depending upon the facts of each case, the bail can be refused, in case, the prima facie case or reasonable grounds exists and

if an offence is serious. Severity of punishment including reasonable apprehension of fleeing away from investigation and trial and the character, past antecedents, behavior, means, position and standing of an accused; likelihood of offence being repeated; reasonable apprehension of witnesses being influenced and danger of justice being thwarted by grant of bail etc. are relevant factors for denying the concession of bail.

5(i). The Hon'ble Supreme Court in **Criminal Appeal No. 3840 of 2023, Saumya Churasia versus Directorate of Enforcement**, decided on 14.12.2023 held that the claim for bail, is to be examined by a Court, *without delving into the evidence on merits but by forming a prima-facie opinion on totality of facts in the light of broad-parameters referred to above.*

ANALYSIS: CLAIM FOR BAIL IN INSTANT CASE:

6. While examining the claim for bail in the instant case, this Court is conscious of the fact that, once petitioner has been implicated with commercial

quantity of contraband i.e. [Cannabis-Charas] weighing 1.509 Kgs therefore, in normal parlance, the rigors of Section 37 (1) (b) of NDPS Act are to be satisfied, before acceding to the claim for bail, in terms of the mandate of law, laid down by the Hon'ble Supreme Court in **Narcotics Control Bureau vs Mohit Aggarwal** AIR 2022 SC 3444, followed in **Union of India vs Ajay Kumar Singh @ Pappu**, SLP (Criminal) No. 2351 of 2023, which stands reiterated by the Hon'ble Supreme Court, in **State by the Inspector of Police vs B. Ramu**, SLP (Criminal) No.8137 of 2022 decided on 12.02.2024.

7. In the aforesaid background, this Court proceeds to examine the claim of the bail petitioner [Missu Ram] for bail, in view of the statutory mandate of Section 37 (1) (b) of NDPS Act **and also, by** taking into account, the **exceptions carved out by the Honble Supreme Court to rigors of Section 37 (1) (b) of NDPS Act, hereinbelow.**

[A]. **CLAIM FOR BAIL UNDER SECTION 37(1) (b) OF NDPS ACT:**

8. This Court proceeds to examine the claim for bail in view of the rigours in Section 37 of the NDPS Act hereinunder;

8(i). Perusal of Status Report and the material on record indicates that neither any *prima facie* case nor any reasonable grounds exist to believe that the bail petitioner is guilty of the offence in the instant case, at this stage.

8(ii). Status Report filed by the State Authorities does not spell out any material to show that the bail petitioner has resorted to any activities, so as to invoke the provisions of Section 20 of NDPS Act, against the petitioner, at this stage. In these circumstances, the bail petitioner appears to be not guilty, in view of inherent discrepancies and grave contradictions in the statements of PWs, at this stage and therefore, the bail petitioner deserves to be granted concession of bail.

8(iii). Section 29 of NDPS Act, alleging abatement

and criminal conspiracy is a matter which is yet to be tested, examined and proved during trial. The accusation of abatement or criminal conspiracy cannot be attributed against the bail petitioner without there being any cogent and convincing material on record and thus, this Court is of the considered view, that the bail petitioner is not guilty of the offence, at this stage.

[B]. NOTHING ADVERSARIAL REGARDING REPETITION OF OFFENCE AFTER BAIL:

9. Status Reports filed by the State Authorities have not expressed any apprehension of repetition of offence after being enlarged on bail hereinafter.

Taking into account the entirety of facts and circumstances, including the Status Reports, this Court is of the considered view, that there are no reasonable grounds to believe that the petitioner is guilty and that the petitioner is likely to repeat the offence after being released on bail and therefore, by applying the twin-tests as mandated in Section

37(1)(b) of the NDPS Act, the bail petitioner [Missu Ram] deserves to be enlarged on bail.

[C] CLAIM FOR BAIL ON OTHER EXCEPTIONAL GROUNDS AND CIRCUMSTANCES:

10. Notwithstanding, the rigours in Section 37 (1) (b) of NDPS Act [supra], yet in view of the ***exceptions carved out by the Honble Supreme Court as detailed hereinunder*** and other circumstances, the bail petitioner is *entitled to be enlarged on bail for the following reasons:-*

10(i). An FIR in instant case was registered on 19.5.2023 and the petitioner has been in custody [since 19.5.2023] i.e. for last more than *1 year and 10 month now*. Even the Investigation is complete and *Challan-Final Police Report* dated 8.8.2023 has been presented before the jurisdictional Court and charge stands framed. The prosecution intends to examine 22 PWs and on date of filing of bail petition, 14 PWs had been examined and 8 PWs are yet to be examined by Learned Special Judge-II, Dharamshala.

10(ii). The Hon'ble Supreme Court in ***Mukesh Kumar versus State of Rajasthan and another, 2023 SCC OnLine SC 2025***, granted bail to an accused suffering incarceration for more than 1 year and 11 months coupled with the fact that there is no much progress in trial, in the following terms:-

- “2. The petitioner is accused of giving one blow on the head of the deceased with a danda (Bamboo). It may also be mentioned that occurrence took place on 08-06-2020 and the deceased succumbed to his injuries on 12-06-2020.
5. After cancellation of bail by the High Court, the petitioner has again surrendered on 16-11-2022 and is in custody.
7. It may be seen that there are cross-versions and both sides suffered injuries. **The question as to who was the aggressor will depend upon the appreciation of evidence and will be decided by the Trial Court at an appropriate stage.** It is not expedient or desirable for this Court to express any opinion in relation thereto at this stage.
8. Suffice to say that the **petitioner has been in custody for more than 14 months**, the crucial witnesses have since been examined and there is no likelihood of tampering with the evidence. Even otherwise also, the witnesses are close family members of both sides, hence there is no likelihood of winning over the witnesses.

9. Since **conclusion of trial will take considerable time**, we deem it appropriate to release the petitioner on bail.
11. Consequently, *without expressing any views on the merits of the case, the **petitioner is directed to be released on bail***, subject to his furnishing bail bonds to the satisfaction of the Trial Court.
12. The petitioner and his family members as well as Respondent No. 2 and his family members will ensure that no untoward incident takes place again.”

PROLONGED INCARCERATION AND INFRINGEMENT OF PERSONAL LIBERTY UNDER ARTICLE 21 OF THE CONSTITUTION OF INDIA:

11. While reiterating the principle that *bail is a rule and jail is an exception* and no accused can be deprived of personal liberty on mere accusation and an accused is to be treated as innocent in the eyes of law, the Hon’ble Supreme Court has outlined the object of bail in ***Guddan alias Roop Narayan versus State of Rajasthan, 2023 SCC OnLine SC 1242***, in the following terms:-

“11. In the case of Sanjay Chandra V. Central Bureau of Investigation, (2012) 1 SCC 40, while hearing a bail Application in a case of an alleged economic offence, this court held that the object of bail is neither punitive nor preventative. It was observed as under:

- "21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. **The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment,** unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.
23. Apart from the question of prevention being the object of **refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct** whether the accused has been convicted for it or not or to **refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.**
25. The provisions of Cr PC confer discretionary jurisdiction on criminal courts to grant bail to the accused pending trial or in appeal against convictions; **since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing the valuable right of liberty of an individual and the interest of the society in general.** In our view, the reasoning adopted

by the learned District Judge, which is affirmed by the High Court, in our opinion, is a denial of the whole basis of our system of law and **normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty. If such power is recognised, then it may lead to chaotic situation and would jeopardise the personal liberty of an individual.**

27. This Court, time and again, has stated that bail is the rule and committal to jail an exception. It has also observed that **refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution"**

12. Further, in the case of Sandeep Jain v. National Capital Territory of Delhi, (2000) 2 SCC 66, this Court, while hearing a bail application held that **conditions for grant of bail cannot become so onerous that their existence itself is tantamount to refusal of bail.** This Court held as under:

"We are unable to appreciate even the first order passed by the Metropolitan Magistrate imposing the onerous condition that an accused at the FIR stage should pay a huge sum of Rs. 2 lakhs to be set at liberty. If he had paid it is a different matter. But the fact that he was not able to pay that amount and in default thereof he is to languish in jail for more than 10 months now, is sufficient indication that he was unable to make up the amount. Can he be detained

in custody endlessly for his inability to pay the amount in the range of Rs.2 lakhs? If the cheques issued by his surety were dishonoured, the Court could perhaps have taken it as a ground to suggest to the payee of the cheques to resort to the legal remedies provided by law.

Similarly if the Court was dissatisfied with the conduct of the surety as for his failure to raise funds for honouring the cheques issued by him, the Court could have directed the appellant to substitute him with another surety. **But to keep him in prison for such a long period, that too in a case where bail would normally be granted for the offences alleged, is not only hard but improper.** It must be remembered that the Court has not even come to the conclusion that the allegations made in the FIR are true. That can be decided only when the trial concludes, if the case is charge-sheeted by the police."

REFORMATIVE APPROACH IN BAIL:

12. While dealing with the concept of bail and personal liberty of an accused under Article 21 of the Constitution of India, the Hon'ble Supreme Court in Criminal Appeal No. 2787 of 2024, titled as ***Javed Gulam Nabi Shaikh Versus State of Maharashtra and Another***, as under:-

- “18 **Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime.** Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.
19. **If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.**
20. **We may hasten to add that the petitioner is still an accused; not a convict. The overarching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.**
- 21 We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.

22 In view of the aforesaid, this appeal succeeds and is hereby allowed. The impugned order passed by the High Court is set aside.”

**BAIL NOT TO BE WITHHELD BY WAY OF PENALTY:
ARTICLE 21 OF CONSTITUTION OF INDIA:**

13. While dealing with a matter relating to prolonged incarceration and the right to speedy trial and right of liberty to be sacrosanct right and while deprecating that the bail is not to be withheld as punishment so as to operate *de hors* the principle that bail is rule and jail is an exception, the Hon’ble Supreme Court, in ***Manish Sisodia vs Directorate of Enforcement, SLP (Criminal) No.8781 of 2024***, decided on 09.08.2024, has held as under :-

“49. We find that, on account of a *long period of incarceration running for around 17 months* and the trial even not having been commenced, the appellant has been deprived of his right to speedy trial.

50. As observed by this Court, the right to speedy trial and the right to liberty are sacrosanct rights. On denial of these rights, the trial court as well as the High Court ought to have given due weightage to this factor.

53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that **bail is not to**

be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. **The principle that bail is a rule and refusal is an exception is, at times, followed in breach.** On account of non-grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. **It is high time that the trial courts and the High Courts should recognize the principle that “bail is rule and jail is exception”.**

55. As observed by this Court in the case of Gudikanti Narasimhulu (supra), **the objective to keep a person in judicial custody pending trial or disposal of an appeal is to secure the attendance of the prisoner at trial.**
56. In the present case, the appellant is having deep roots in the society. **There is no possibility of him fleeing away** from the country and not being available for facing the trial. In any case, *conditions can be imposed to address the concern of the State.*
57. Insofar as the apprehension given by the learned ASG regarding the possibility of tampering the evidence is concerned, it is to be noted that the case largely depends on documentary evidence which is already seized by the prosecution. **As such, there is no possibility of tampering with the evidence. Insofar as the concern with regard to influencing the witnesses is concerned, the said concern can be addressed by imposing stringent conditions upon the appellant.”**

13(i). While adjudicating the claim for bail, even under Special Enactments, like PMLA [akin to NDPS Act], the Hon’ble Apex Court in ***Criminal Appeal***

No._____of 2024 [Arising out of SLP (Criminal) No. 10778 of 2024], titled as Kalvakuntla Kavitha Versus Directorate of Enforcement and connected matter has mandated that fundamental right of liberty provided under Article 21 of the Constitution of India is superior to the statutory restrictions, in the following terms:-

“13. We had also reiterated the well-established principle that “bail is the rule and refusal is an exception”. We had further observed that the fundamental right of liberty provided under Article 21 of the Constitution is superior to the statutory restrictions.”

RIGOURS IN SPECIAL ENACTMENTS [SECTION 37 OF NDPS] TO GIVE WAY FOR BAIL-PROLONGED INCARCERATION AND COMPLETION OF TRIAL TO TAKE CONSIDERABLE TIME:

14. While dealing with the claim for bail under Special Enactments and rigors of Section 45 (1) (ii) of MPLA and proviso to Section 43-D (5) of the Unlawful Activities [Prevention] Act, 1967 and Section 37 of NDPS Act, the Hon’ble Supreme Court in ***Criminal Appeal No.4011 of 2024, in re: V. Senthil Balaji Versus The Deputy Director, Directorate***

of Enforcement, has mandated that rigors in Special Enactments, including Section 37 of NDPS Act, will melt down when, there is no likelihood of the trial being completed in a reasonable time and in view of prolonged incarceration, so as to prevent deprivation of curtailment of personal liberty and right to speedy trial in terms of Article 21 of Constitution of India, in the following terms:-

- “24. There are a few penal statutes that make a departure from the provisions of Sections 437, 438, and 439 of the Code of Criminal Procedure, 1973. A higher threshold is provided in these statutes for the grant of bail. **By way of illustration, we may refer to Section 45(1)(ii) of PMLA, proviso to Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967 and Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, ‘NDPS Act’)**. The provisions regarding bail in some of such statutes start with a non obstante clause for overriding the provisions of Sections 437 to 439 of the CrPC. The legislature has done so to secure the object of making the penal provisions in such enactments. For example, the PMLA provides for Section 45(1)(ii) as money laundering poses a serious threat not only to the country's financial system but also to its integrity and sovereignty.
25. **Considering the gravity of the offences in such statutes, expeditious disposal**

of trials for the crimes under these statutes is contemplated. Moreover, such statutes contain provisions laying down higher threshold for the grant of bail. The expeditious disposal of the trial is also warranted considering the higher threshold set for the grant of bail. Hence, the requirement of expeditious disposal of cases must be read into these statutes. ***Inordinate delay in the conclusion of the trial and the higher threshold for the grant of bail cannot go together. It is a well settled principle of our criminal jurisprudence that “bail is the rule, and jail is the exception.” These stringent provisions regarding the grant of bail, such as Section 45(1)(iii) of the PMLA, cannot become a tool which can be used to incarcerate the accused without trial for an unreasonably long time.***

25. ***Considering the gravity of the offences in such statutes, expeditious disposal of trials for the crimes under these statutes is contemplated. Moreover, such statutes contain provisions laying down higher threshold for the grant of bail. The expeditious disposal of the trial is also warranted*** considering the higher threshold set for the grant of bail. Hence, the requirement of expeditious disposal of cases must be read into these statutes. ***Inordinate delay in the conclusion of the trial and the higher threshold for the grant of bail cannot go together. It is a well settled principle of our criminal jurisprudence that “bail is the rule, and jail is the exception.” These stringent provisions regarding the grant of bail, such as Section 45(1) (iii) of the PMLA, cannot become a tool which can be used to incarcerate the accused***

without trial for an unreasonably long time.

26. *There are a series of decisions of this Court starting from the decision in the case of K.A. Najeeb, which hold that such stringent provisions for the grant of bail do not take away the power of Constitutional Courts to grant bail on the grounds of violation of Part III of the Constitution of India. We have already referred to paragraph 17 of the said decision, which lays down that the rigours of such provisions will melt down where there is no likelihood of trial being completed in a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. One of the reasons is that if, because of such provisions, incarceration of an under-trial accused is continued for an unreasonably long time, the provisions may be exposed to the vice of being violative of Article 21 of the Constitution of India.*
27. Under the Statutes like PMLA, the minimum sentence is three years, and the maximum is seven years. The minimum sentence is higher when the scheduled offence is under the NDPS Act. When the trial of the complaint under PMLA is likely to prolong beyond reasonable limits, the Constitutional Courts will have to consider exercising their powers to grant bail. The reason is that Section 45(1)(ii) does not confer power on the State to detain an accused for an unreasonably long time, **especially when there is no possibility of trial concluding within a reasonable time.** What a reasonable time is will depend on the provisions under which the accused is being tried

and other factors. One of the most relevant factor is the duration of the minimum and maximum sentence for the offence. Another important consideration is the higher threshold or stringent conditions which a statute provides for the grant of bail. Even an outer limit provided by the relevant law for the completion of the trial, if any, is also a factor to be considered. ***The extraordinary powers, as held in the case of K.A. Najeeb, can only be exercised by the Constitutional Courts. The Judges of the Constitutional Courts have vast experience. Based on the facts on record, if the Judges conclude that there is no possibility of a trial concluding in a reasonable time, the power of granting bail can always be exercised by the Constitutional Courts on the grounds of violation of Part III of the Constitution of India notwithstanding the statutory provisions. The Constitutional Courts can always exercise its jurisdiction under Article 32 or Article 226, as the case may be. The Constitutional Courts have to bear in mind while dealing with the cases under the PMLA that, except in a few exceptional cases, the maximum sentence can be of seven years. The Constitutional Courts cannot allow provisions like Section 45 (1) (ii) to become instruments in the hands of the ED to continue incarceration for a long time when there is no possibility of a trial of the scheduled offence and the PMLA offence concluding within a reasonable time. If the Constitutional Courts do not exercise their jurisdiction in such cases, the rights of the undertrials under Article 21 of the Constitution of India will be defeated. In a given case, if an undue delay in the disposal of the***

trial of scheduled offences or disposal of trial under the PMLA can be substantially attributed to the accused, the Constitutional Courts can always decline to exercise jurisdiction to issue prerogative writs. An exception will also be in a case where, considering the antecedents of the accused, there is every possibility of the accused becoming a real threat to society if enlarged on bail. The jurisdiction to issue prerogative writs is always discretionary.

29. *As stated earlier, the appellant has been incarcerated for 15 months or more for the offence punishable under the PMLA. In the facts of the case, the trial of the scheduled offences and, consequently, the PMLA offence is not likely to be completed in three to four years or even more. If the appellant's detention is continued, it will amount to an infringement of his fundamental right under Article 21 of the Constitution of India of speedy trial.*
31. *Therefore, the appeal is allowed, and the appellant shall be enlarged on bail till the final disposal of CC No. 9 of 2023 pending before the Principal Session Judge, Chennai*

14(i). While reiterating the grant of bail, despite statutory embargoes in Special Enactments, Hon'ble Supreme Court in ***Criminal Appeal No. 5266 of 2024 (Arising out of SLP (CRL.) No. 13870 of 2024***, titled as ***Partha Chatterjee Versus Directorate***

of Enforcement, decided on 13.12.2024, **2024 SCC Online SC 3729**, has been reiterated, by treating the right to life and liberty under Article 21 of the Constitution of India to be of paramount importance and action of prolonging the incarceration so as to make such incarceration punitive has been deprecated by granting bail, in the following terms:-

- “13. We have considered the rival submissions and carefully examined the material on record. At the outset, it is worth reiterating that this Court, through a catena of decisions, has consistently emphasized that prolonged incarceration of an accused awaiting trial unjustly deprives them of their right to personal liberty. ***Even statutory embargoes on the grant of bail must yield when weighed against the paramount importance of the right to life and liberty under Article 21 of the Constitution, particularly in cases where such incarceration extends over an unreasonably long period without conclusion of trial.***
17. ***We, however, cannot be oblivious to the settled principles that a suspect cannot be held in custody indefinitely and that undertrial incarceration should not amount to punitive detention.*** The Court would, nevertheless, ensure that affluent or influential accused do not obstruct the ongoing investigation, tamper with evidence, or influence witnesses, namely, actions that undermine the fundamental doctrine of a fair trial.

18. Striking a balance between these considerations and without expressing any opinion on the merits of the allegations, we deem it appropriate to dispose of this appeal with the following directions:

f. The Petitioner shall thereafter be released on bail on 01.02.2025, subject to his furnishing bail bonds to the satisfaction of the Trial Court;

Keeping in view the factual matrix that no reasonable grounds exist against the bail petitioner, as referred to above, coupled with the fact the bail petitioner has suffered incarceration for *more than one year and ten months [since 19.05.2023]* and even trial is likely to take considerable time for the reason, that out of total 22 PWs, 14 PWs have been *examined as yet*, and therefore, further detention shall certainly amount to depriving and curtailing the personal liberty of the petitioner on mere accusation or conjectures or surmises, which are yet to be tested, examined and proved during the trial. Detention of the petitioner can neither be punitive nor preventative, so as to make the petitioner to taste imprisonment as a lesson. Denial

of bail shall certainly violates the principle that “*bail is rule and jail is an exception*”. Even, the State Authorities, have failed to ensure *speedy trial* and still considerable time is likely to be taken for conclusion of trial, then, in view of mandate of law in the cases of ***Guddan alias Roop Narayan, Javed Gulam Nabi Shaikh, Manish Sisodia, Kalvakuntla Kavitha, Senthil Balaji*** and ***Partha Chatterjee*** [*supra*], the petitioner deserves to be released on bail.

MANDATE OF HON’BLE SUPREME COURT IN BAIL IN COMMERCIAL QUANTITY: PROLONGED INCARCENATION AND COMPLETION OF TRIAL TO TAKE CONSIDERABLE TIME:

15. While dealing with similar situation dealing with involvement of accused in commercial quantity of contraband, Hon’ble Supreme Court has extended benefit of bail to the bail petitioner in ***Petition(s) for Special Leave to Appeal (Crl.) No(s). 1904 / 2023***, titled as ***Sunil Kumar Versus The State of Himachal Pradesh***, decided on 29.03.2023, in the

following terms:-

“It is noted that the ***petitioner has been in custody for more than one and a half years and the trial is yet to conclude.*** Earlier, the petitioner had been granted interim bail on two occasions and has not misused the liberty of interim bail or violated any of the bail conditions imposed upon him but has thereafter, surrendered back.

Therefore, keeping all these aspects in view, the petitioner is ordered to be released on bail subject to appropriate conditions being imposed by the Trial Court including the condition that the petitioner shall diligently participate in the trial. Ordered accordingly.”

15(i). In ***Petition(s) for Special Leave to Appeal (Crl.) No (s). 4648/2024***, titled as ***Ankur Chaudhary Versus State of Madhya Pradesh***, decided on 28.05.2024, Hon’ble Supreme Court granted bail by invoking Article 21 of Constitution of India as the prolonged incarceration defeats precious fundamental rights and such fundamental rights have to override the statutory embargo in Section 37 (1) (b) of NDPS Act in the following terms:-

“Now, on examination, the panch witnesses have not supported the case of prosecution. On facts, we are not inclined to consider

the Investigation Officer as a panch witness. It is to observe that **failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India, and as such, conditional liberty overriding the statutory embargo created under Section 37(1) (b) of the NDPS Act may, in such circumstances, be considered.**

In view of the above, we are inclined to allow this petition and direct to enlarge the petitioner on bail on furnishing the suitable bail bonds and sureties and on such other terms and conditions as may be deemed fit by the trial Court.”

15(ii). In **Petition(s) for Special Leave to Appeal (Crl.) No(s). 7115 /2024**, titled as **Sohrab Khan versus The State of Madhya Pradesh**, decided on 13.08.2024, the Hon’ble Supreme Court has extended benefit of concession of bail to an accused, who was facing incarceration of one year and four months in the following terms:-

“The petitioner is an accused for the alleged offences punishable under Sections 8/22 and 29 of the Narcotic Drugs and Psychotropic Substances Act. His bail application was dismissed by the High Court. **He has already undergone about one year and four months in jail.** The petitioner and com accused were found in possession of 80

grams of MD powder each of which commercial quantity is 50 grams.

Considering the fact that the petitioner criminal antecedents and the entire facts and circumstances has no of this case, we are of the opinion that a case of bail is made out for the petitioner and therefore, the prayer of the petitioner is allowed.

Accordingly, the petitioner is directed to be released on bail forthwith on the usual terms and conditions to be decided by the concerned Court.”

15(iii). In ***Petition(s) for Special Leave to Appeal (Crl.) No(s). 9510/2024***, titled as ***Ram Lal Versus The State of Rajasthan***, decided on 17.09.2024, similar benefit of bail was extended where the incarceration was prolonged, as in this case, in the following terms:-

“The petitioner and the other accused persons are accused for the offences punishable under Sections 8/21 & 8/29 of the Narcotic Drugs and Psychotropic Substances Act and allegation is that 450 gm of smack has been recovered from them. *The bail application of the petitioner was dismissed by the High Court.* Hence, he approached this Court. **He has already undergone about 1 year and 6 months in jail.**

Heard learned counsel for the petitioner. As per office report dated 13.09.2024, the service is deemed complete on the

sole respondent-State but no one has appeared for the state.

Considering the period of incarceration of the petitioner and the fact that the petitioner has no criminal antecedents, we are of the opinion that a case of bail is made out for the petitioner.

Accordingly, the petitioner is directed to be released on bail forthwith on the usual terms and conditions to be decided by the concerned Court.”

MANDATE OF THIS COURT GRANTING BAIL IN COMMERCIAL QUANTITY DUE TO PROLONGED INCARCENATION AND COMPLETION OF TRIAL TO TAKE CONSIDERABLE TIME:

16. While dealing with the claim for bail in a case, a Co-ordinate Bench of this Court, in ***Cr. MP (M) No. 2618 of 2023, Jasbir Singh versus State of Himachal Pradesh***, decided on 4.11.2023, affirmed the right to bail in view of prolonged detention of the accused therein, in the following terms:-

“5(ii). In 2021 (3) SCC, 713, Union of India Versus K.A. Najeeb, Hon’ble Apex Court considered various judicial **precedents where Article 21 of the Constitution of India was invoked in case of gross delay in disposal of cases of under- trials and consequential necessity to release them on bail.** The earlier decisions were reiterated that liberty granted by Part-III of the Constitution, would cover within its protective ambit not only due procedure and fairness,

but also access to justice and speedy trial. It was held that once it is obvious that a **timely trial would not be possible and the accused have suffered incarceration for a significant period of time, the Courts would ordinarily be obligated to enlarge them on bail.** Some relevant paras from the judgments are extracted hereinafter:-

“10. It is a fact that the High Court in the instant case has not determined the likelihood of the respondent being guilty or not, or whether rigours of Section 43D(5) of UAPA are alien to him. The High Court instead appears to have exercised its power to grant bail owing to the long period of incarceration and the unlikelihood of the trial being completed anytime in the near future. The reasons assigned by the High Court are apparently traceable back to Article 21 of our Constitution, of course without addressing the statutory embargo created by Section 43D (5) of UAPA.

11. The High Court’s view draws support from a batch of decisions of this Court, including in Shaheen Welfare Assn, laying down that **gross delay in disposal of such cases would justify the invocation of Article 21 of the Constitution and consequential necessity to release the undertrial on bail.** It would be useful to quote the following observations from the cited case:

“10. Bearing in mind the nature of the crime and the need to protect the society and the nation, TADA has prescribed in Section 20(8) stringent provisions for granting bail. Such stringent provisions can be justified looking to the nature of the crime, as was held in Kartar Singh case, on the

presumption that the trial of the accused will take place without undue delay. No one can justify gross delay in disposal of cases when undertrials perform remain in jail, giving rise to possible situations that may justify invocation of Article 21.” ...

(emphasis supplied)

12. Even in the case of special legislations like the Terrorist and Disruptive Activities (Prevention) Act, 1987 or the Narcotic Drugs and Psychotropic Substances Act, 1985 (“ the NDPS Act”) which too have somewhat rigorous conditions for grant of bail, **this Court in Paramjit Singh v. State (NCT of Delhi), Babba v. State of Maharashtra and Umarmia alias Mamumia v. State of Gujarat enlarged the accused on bail when they had been in jail for an extended period of time with little possibility of early completion of trial.** The constitutionality of harsh conditions for bail in such special enactments, has thus been primarily justified on the touchstone of speedy trials to ensure the protection of innocent civilians.

13. We may also refer to the orders enlarging similarly situated accused under the UAPA passed by this Court in Angela Harish Sontakke v. State of Maharashtra. That was also a case under Sections 10, 13, 17, 18, 18A, 18B, 20, 21, 38, 39 and 40(2) of the UAPA. This Court in its earnest effort to draw balance between the seriousness of the charges with the period of custody suffered and the likely period within which the trial could be expected to be completed took note of the **five years’ incarceration** and over 200 witnesses left to be examined, and thus granted bail to the accused notwithstanding Section 43D(5) of UAPA. Similarly, in Sagar Tatyaram Gorkhe v.

State of Maharashtra, an accused under the **UAPA was enlarged for he had been in jail for four years and there were over 147 witnesses still unexamined.**

15. This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee (Representing Under-trial Prisoners) v. Union of India, it was held that undertrials cannot indefinitely be detained pending trial. **Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter.** However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, Courts are tasked with deciding whether an individual ought to be released pending trial or not. **Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, Courts would ordinarily be obligated to enlarge them on bail.**

17. It is thus clear to us that the presence of statutory restrictions like Section 43D (5) of UAPA per se does not oust the ability of Constitutional Courts to grant bail on grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a Statue as well as the powers exercisable under Constitutional Jurisdiction can be well harmonised. Whereas at commencement of proceedings, Courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where

there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an approach would safeguard against the possibility of provisions like Section 43-D (5) of UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.”

- 5(iv).A previous bail petition bearing Cr.MP (M) No.1458/2022 instituted by the petitioner was dismissed on merit on 02.09.2022. While deciding the aforesaid bail petition, considering the fact that *FIR in question pertained to the year 2020, it was hoped and expected that the learned Trial Court would make endeavour to expedite the trial. We are now at the fag end of 2023.* In terms of the status report filed by the respondent, **the prosecution has examined 16 witnesses thus far. Statements of 23 prosecution witnesses still remain to be recorded.** The zimni orders placed on record reflect that the trial has been deferred time and again for want of presence of prosecution witnesses. **Considering the fact that at this stage 23 witnesses remain to be recorded, it is apparent that the trial is not going to be concluded in near future. The petitioner, who has already spent about three years and five months in custody, in my considered opinion has made out a case for his enlargement on regular bail at this stage.** There is no criminal history of the petitioner. The apprehension expressed by the prosecution about the likelihood of petitioner’s tampering with the evidence or winning over remaining witnesses, can be taken care of by imposing stringent conditions and also granting

liberty to the respondent/State to seek cancellation of the bail in case the conditions are violated by the petitioner. In view of all the aforesaid reasons and without expressing any opinion on the merits of the case, the present petition is allowed. Petitioner is ordered to be released on bail in the aforesaid FIR..”

16(i). While dealing with the claim for bail in commercial quantity of poppy straw [*churapost-bhukki*] of 54.760 Kgs. and taking into account the prolonged incarceration for about one year and eight months, the Co-ordinate Bench of this Court, has extended concession of bail to an accused, in **Cr.MP (M) No. 1003 of 2024**, titled as **Vijay Singh Versus State of Himachal Pradesh**, decided on 24.05.2024, in the following terms:-

- “10. Though, the case at hand is to be decided by learned trial Court, in the totality of evidence collected on record by the investigating agency, but having noticed aforesaid glaring aspects of the matter, there appears to be no justification for this Court to let the bail petitioner incarcerate in jail, for an indefinite period during trial, especially when rigours of S.37 of the Act are not attracted on account of recovery of small quantity.
11. Learned counsel for the petitioner while inviting attention of this court to judgments

dated 4.3.2023 and 15.3.2023 passed in Cr.MP(M) No. 62 and 570 of 2023, titled **Puran Chand v. State of HP and Premchand v. State of HP.**, submitted that in similar facts and circumstances, coordinate Bench of this Court as well as this Court enlarged the accused on bail on the ground of inordinate delay. Having perused aforesaid judgments passed by the coordinate Bench of this Court, this Court finds that in both the cases, commercial quantity of contraband was recovered from the accused, but yet court having taken note of the fact that they were behind the bars for more than three years, proceeded to enlarge them on bail.

12. Hon'ble Apex Court having taken note of inordinate delay in conclusion of trial in similar facts ordered for enlargement of accused on bail in **Nitish Adhikary @ Bapan v. The State of West Bengal**, Special Leave to Appeal (Crl.) No. 5769 of 2022 decided on 1.8.2022 and in **Abdul Majeed Lone v. Union Territory of Jammu and Kashmir**, Special Leave to Appeal (Crl) No. 3961 of 2022, decided on 1.8.2022, who were also framed under Narcotic Drugs and Psychotropic Substances Act and were **behind the bars for approximately two years** and there was no likelihood of conclusion of trial in near future, subject to certain conditions.
13. Learned Counsel appearing for the petitioner, to substantiate his plea for enlarging the petitioner on bail, has referred order dated 12.10.2020 passed by a three judges Bench of the Supreme Court, in Criminal Appeal No. 668 of 2020, titled **Amrit Singh Moni v. State of Himachal Pradesh**, whereby petitioner therein, facing trial for recovery of 3.285 kilograms charas from

a vehicle, alongwith four other persons, was enlarged on bail, for having been in **detention for 2 years and 7 months**, as **till then out of 14 witnesses, 7 witnesses were yet to be examined** and last witness was examined in February, 2020 and, thereafter, there was no further progress in the trial.

14. Recently, Hon'ble Apex Court in SLP(Crl) No. 1904 of 2023 titled **Sunil Kumar v. The State of Himachal Pradesh**, decided on 29.3.2023, has ordered enlargement of petitioner therein, who was behind bars for one and half years, on the ground of delay in trial and conduct of the petitioner.
15. Learned Additional Advocate General, referring to judgment of a three Judges Bench of Supreme Court, passed on 19.7.2022 in **Narcotics Control Bureau v. Mohit Aggarwal** contends that period of detention cannot be a ground for enlarging the petitioner on bail, especially in the cases where rigors of Section 37 are attracted.
16. In the instant case, bail **petitioner is behind bars for more than 13 months** and till date trial has not been completed and there are very bleak chances of conclusion of the same in near future, as such, there appears to be no justification to keep the bail petitioner behind the bars for an indefinite period, during trial.”

16(ii). The Coordinate Bench of this Court in **Cr.MP(M) No. 2656 of 2024**, titled as **Kamal Singh Versus State of Himachal Pradesh**, decided on 11.12.2024, has enlarged the accused on bail in case relating to

commercial quantity of *charas*, i.e. 1.209 Kgs. who was facing incarceration for about 12 months, in the following terms:-

“2.Allegedly, police recovered one rucksack (pithu bag) from the vehicle containing huge quantity of contraband. On weighing, police found that 1.209 Kgs. of charas / sulfa was being transported by the occupants in the vehicle, as detailed hereinabove. Since, no plausible explanation ever came to be rendered on record qua possession of aforesaid commercial quantity of contraband.....”

21. In view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court, petitioner has carved out a case for grant of bail, accordingly, the petition is allowed and the petitioner is ordered to be enlarged on bail in aforesaid FIR.....”

16(iii) Recently while dealing with claim for bail, in a case relating to commercial quantity, the accused was enlarged on bail, as the accusation under Section 37(i) (b) was not satisfied on facts coupled with the factum of prolonged incarceration, in **Cr.MP(M) No. 1737 of 2024**, titled **Purba Sherpa** versus **State of Himachal Pradesh**, in **Cr.MP(M) No. 2047 of 2024**, titled **Om Parkash** versus **State of Himachal Pradesh**, decided

on 10.01.2025 and **Cr.MP(M) No. 1606 of 2024**, titled **Kalu Ram** versus **State of Himachal Pradesh**, decided on 15.01.2025.

NOTHING ADVERSARIAL REGARDING TAMPERING WITH EVIDENCE OR WITNESSES ETC:

17. Status Reports filed by the State Authorities have neither pointed out cogent and convincing material revealing adversarial circumstances that after release on bail, the petitioner is likely to tamper with evidence or may cause inducement, threat or promise to any person or persons acquainted with the facts of the case. However, the apprehension, if any, of State Authorities are being safeguarded, by imposing stringent conditions in this bail order.

NOTHING ADVERSARIAL REGARDING OBSTRUCTING OR ATTEMPTING TO THWARTLING JUSTICE :

18. Status Reports filed by State Authorities have neither pointed out any adversarial circumstances nor placed on record any cogent and convincing material on record to infer that after release on bail, the petitioner may obstruct or thwart the cause of

justice in any manner. In absence of any material, the plea for bail deserves to be granted to the petitioner in the instant case.

NOTHING ADVERSARIAL LIKELIHOOD OF FLEEING AWAY FROM TRIAL OR JURISDICTION OF COURT:

19. In order to safeguard the rights of the bail petitioner and to take care of the apprehensions of the State, if any, that the bail petitioner may flee away [notwithstanding that no such apprehension has been pointed out in Status Report] yet, in the peculiar facts of this case, this Court imposes stringent conditions in later part of this order.

CLAIM FOR ENLARGEMENT ON BAIL ON PRINCIPLE OF PARITY:

20. Learned Counsel for the petitioner asserts that two other co-accused, namely, Tilak Raj [Cr.MP(M) No.1462 of 2024] and Mehar Singh [Cr.MP(M) No.443 of 2025] have been enlarged on bail by this Court vide orders dated 10.01.2025 and 28.03.2025.

The above contention has force when, no recovery has been effected from the bail petitioner,

coupled with the fact that main accused, has been enlarged on bail, therefore, in these circumstances the claim for bail carries weight and is accepted.

CONCLUSION AND DIRECTIONS:

21. In the facts of instant case, the plea of petitioner for bail carries weight, *for the reason*, that *firstly, prima facie* **prosecution story appears to be highly doubtful and improbable** which is yet to be tested, examined and proved during the trial; and *secondly*, the Status Report reveals that the bail petitioner is in custody since 19.05.2023 and is undergoing **incarceration for about one year and ten months**; and *thirdly, conclusion of trial is likely to take considerable time when, Learned Counsel for petitioner*, informs that out of total 22 PWs 14 PWs have been examined as on day; and *fourthly*, the **delay in trial is not attributable** to the petitioner; and *fifthly*, an accused **is presumed to be innocent unless proven guilty**; and *sixthly*, the continued **detention can neither be punitive nor**

preventative and *seventhly*, the continued **detention in guise of penalizing** the petitioner by presuming guilt cannot be permitted; and *eighthly*, even the State Authorities have not placed any cogent and convincing material that after release on bail there is possibility of accused fleeing away from the trial or an accused is likely to threaten witnesses or is likely to thwart justice; and *ninthly*, even the State Authorities have not placed anything on record to **show that the petitioner has misused liberty granted to him earlier**; and *tenthly*, the petitioner has not past criminal antecedents and other co-accused have been enlarged on bail [as in Para 20] of this order; and *lastly*, in order to safeguard the interest of the State vis-à-vis the right of petitioner, this Court imposes stringent condition in this order and in case of any violation of or misuse of the concession-liberty, the State Authorities can seek cancellation of the concession extended to the petitioner. Denial of bail shall deprive and curtail the sacrosanct fundamental rights of personal

liberty and right of speedy trial under Article 21 of the Constitution of India of the petitioner at this stage. On totality of facts and circumstances and the mandate of law, referred to above, the claim of the petitioner [Missu Ram] for enlargement on bail carries weight, in the peculiar facts-situation of this case, as discussed above.

DIRECTIONS:

22. Taking into account the entirety of the facts, the material on record and the mandate of law and in view of the discussion made and the reasons recorded hereinabove and in the peculiar facts of case, the **instant petition is allowed**, and the *State Authorities are directed to release the petitioner [Missu Ram] on bail*, subject to observance of the following conditions:-

- (i). Respondent-State Authorities shall release bail petitioner [Missu Ram] on furnishing a personal bond of Rs 75,000/- {Rs Seventy Five Thousand} with two sureties on furnishing similar bond amount each, to the satisfaction of Learned Trial Court concerned;
- (ii). Petitioner shall undertake and shall also appear on every date of trial hereinafter. Failure to appear in trial, except when exempted, shall

result in cancellation of the concession of bail as granted by this Court.

- (iii). Petitioner shall abide by all or any other condition(s), which may be imposed by the Learned Trial Court, in view of this order;
- (iv). Petitioner shall neither involve himself nor shall abet the commission of any offence hereinafter. Involvement in any offence whatsoever or abetting thereof shall entail automatic cancellation of bail granted in terms of this order ;
- (v). Petitioner shall disclose his functional E-Mail IDs/ WhatsApp number and that of his surety to the Learned Trial Court;
- (vi). Petitioner after release, shall report to the Investigating Officer or SHO of Police Station concerned, nearest to his native place, i.e. Patan, Tehsil Padhar, District Mandi [HP] on 2nd Sunday of every month at 11.00 a.m., only for having an update on good conduct and behaviour ;
- (vii). Petitioner shall not jump over the bail and also shall not leave the country without the prior information of the Court;
- (viii). Petitioner shall not tamper with the evidence in any manner;
- (ix). Petitioner shall not cause any inducement, threat or promise {directly or indirectly} to witnesses of any other person acquainted with the case;
- (x). Petitioner is free to seek modification of any condition contained hereinabove, if need arises;
- (xi) State Authorities are free to move this Court for seeking alteration /modification of any of the condition contained in this order or any condition imposed by Learned Trial

Court as a sequel to this order, in fact situation of instant case or circumstances so necessitate, at any time herein-after;

- (xii). State Authorities are free to move this Court for seeking cancellation of the concession of bail, in case, the petitioner violates any of the conditions contained in this order.

23. Observations made in this judgment shall not be construed in any manner as an indictive of findings, for or against the parties herein, either for the purpose of investigation or for trial, which shall proceed in-accordance with law, irrespective of any of the observations contained hereinabove.

24. Petitioner is permitted to produce/use copy of this order, downloaded from the web-page of the High Court of Himachal Pradesh, before the authorities concerned, and the said authorities shall not insist for production of a certified copy, but if required, may verify about the passing of this order from the *Website* of this Court.

Pending miscellaneous application(s), if any,
shall also stand disposed of.

(Ranjan Sharma)
Judge

April 11, 2025.
(himani)