

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59168-2024
Reserved on: 07.01.2025
Pronounced on: 13.01.2025

Gurcharan Singh @ Toti Doctor ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vivek Singla, Advocate,
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
68	24.08.2023	Bhadaur, Distt. Barnala	304, 34 IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 13 of the bail petition and as per paragraph 8 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	40	18.08.2018	21 of NDPS Act	Sehna, Distt. Barnala
2.	43	22.06.2022	22 of NDPS Act	Sehna, Distt. Barnala
3.	26	16.06.2024	22 of NDPS Act	Sehna, Distt. Barnala

3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. That the present FIR was registered on the statement of Simranjit Singh @ Sunny Gill, on the allegations that he is doing agricultural work for the last 7-8 years, that he used to consume intoxicant substance occasionally that he has also receiving de-addiction treatment from Civil Hospital Barnala. On 20.08.2023, at about 1.30, he was present near Tehsil Bhadaur when Baljit Singh son of Darshan Singh of his village met him, who is also habitual of consuming intoxicant substance and they

both decided for substance abuse on that day. That he used to purchase the intoxicant substance from present petitioner Gurcharan Singh, who is resident of Tutra Patti, Sehna. They met the petitioner at Sehna and purchased a Bit of intoxicant substance for sum of Rs.500/-. That while they were returning, on way as they were desirous of consuming more intoxicating substance, Baljit Singh in order to procure the same made phone call from mobile no.89687-xxxxx to mobile no.77173-xxxxx. That thereafter Baljit Singh told him that the said person is from village Nangal and used to sell intoxicant substance. That thereafter they reached village Nangal where one person came present and Baljit Singh purchased half grams (Chita) intoxicant substance from him for sum of Rs.1500/-. That thereafter they reached on pavement of drain, Majhuke Road, Bhadaur where they injected the intoxicant substance into their arms, however Baljit Singh became unconscious and the complainant made an effort to make him conscious. When Baljit Singh regained consciousness, he dropped Baljit Singh at his house and thereafter on next day, he came to know that due to overdose, Baljit Singh has died. On this statement, present FIR was registered against the petitioner and an unknown person.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.
5. The State's counsel opposes bail and refers to the status report.
6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“ROLE OF THE PETITIONER:

5. That the present petitioner is actively involved in the grave offences related to drug peddling. The same is evident from his criminal antecedents which reflect that he is involved in other multiple cases of similar nature and more so is convicted in two such cases. Thus in the present case as detailed out by the complainant the cause of death is on account of overdose of drug which was supplied by the present petitioner imputing the knowledge of the graver consequence which may be fatal to the person consuming the drugs supplied by the petitioner. Hence ingredients of offence under Sec 304 IPC is clearly made out.

EVIDENCE AGAINST THE PETITIONER:

6. That during investigation of the present case, ex Panchayat member namely Nirmal Singh @ Nimma s/o Jarnail Singh and Surjit Singh s/o Mukand Singh both resident of Majhuke Road, Bhadaur got recorded their statements to the effect that both of them are involved in agriculture occupation and are neighbors of deceased Baljeet Singh s/o Darshan Singh. That further they stated that they have warned the present petitioner many times not to supply intoxicants in their area, but the petitioner continued his criminal activities of supplying drugs; hence the deceased Baljeet Singh consumed intoxicants after buying it from petitioner and it resulted fatal for him.”

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. As per paragraph 6 of the bail petition, the petitioner has been in custody since 24.07.2024. As per custody certificate dated 05.01.2025, the petitioner’s total custody in this FIR is five months and thirteen days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.

8. Without commenting on the case’s merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court’s official webpage.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	

4.	E-Mail id (If available)	
----	--------------------------	--

11. This order is subject to the petitioner’s complying with the following terms.
12. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.
13. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.
14. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
15. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.
16. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

13.01.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.