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

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Sandeep Singh alias Nikka

...Petitioner

V/s

State of Punjab

...Respondent

Date of decision: 06.07.2026**Date of Uploading : 06.07.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Lupil Gupta, Advocate for the petitioner.

Mr. Hemant Aggarwal, DAG Punjab.

SUMEET GOEL, J. (Oral)

1. Present second petition has been filed under Section 483 of the Bharatiya Nagrik Suraksha Sanhita seeking grant of regular bail to the petitioner in case bearing FIR No.92 dated 27.05.2025, registered for the offences punishable under Sections 22/21 of the NDPS Act at Police Station Nihal Singh Wala, District Moga.

2. The petitioner had earlier applied for grant of regular bail before this Court which was dismissed as withdrawn on 27.01.2026. The relevant part of said order reads as under:-

“2. Learned counsel for the petitioner, after arguing for sometime, seeks to withdraw the petition in hand, at this stage.

3. Ordered accordingly.

4. Needless to say that, the petitioner shall be at liberty to apply for regular bail in the first instance before the learned Special Judge, in case trial is procrastinate and folly cannot be attributable to the petitioner.”

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3. The gravamen of the FIR reflects that on 27.05.2025 at 02:30 PM, while a police party headed by ASI Pritam Singh was conducting area patrolling near Sem Bridge, Himmatpura, two youths allegedly attempted to flee after dropping plastic bags upon noticing the police. They were apprehended and identified as Sandeep Singh alias Nikka (petitioner herein) and Ramandeep Singh alias Arshoo. After being informed of their rights under Section 50 of the NDPS Act as also the consent to be searched by the police officer present, the bags allegedly dropped by them were searched. From the possession of Sandeep Singh alias Nikka (petitioner herein), 30 loose intoxicating tablets were recovered. From the possession of Ramandeep Singh alias Arshoo, 20 grams of heroin was recovered. The recovered contraband was sealed, sample seals were prepared and the articles were taken into police possession through recovery memos. Photography/videography of the recovery proceedings was conducted through the E-Sakshiya application. On the basis of these recoveries, the police alleged commission of offences under the Narcotic Drugs and Psychotropic Substances Act, 1985, and sent a rukka for registration of a criminal case against both accused persons. The petitioner was extended the concession of interim bail on 09.07.2025 as the report of the chemical examiner was not received. Thereafter, the petitioner was again sent to the custody on 15.09.2025 after the receipt of the Chemical Examiner i.e. 4.32 grams of Etizolam salt, which falls under the commercial quantity.

4. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated into the FIR in question and has no direct or indirect connection with the alleged recovery. Learned counsel has

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further iterated that the FIR in question pertains to recovery of 4.32 grams of Etizolam salt which is a commercial quantity. Learned counsel has further submitted that the FIR is a sheer abuse of process of law and is reflective of the arbitrary and unlawful actions of the police authorities who appear to have planted a false case upon the petitioner. Learned counsel has further submitted that mandatory provisions of the NDPS Act have not scrupulously been complied with, and thus, the prosecution case suffers from inherent defects. It has been further submitted that no independent witness, as required under law, has been enjoined while carrying out the search/investigation. Learned counsel has iterated that the trial is delayed and the liability thereof cannot be fastened upon the petitioner. Learned counsel has further iterated that a bare reading of the FIR demonstrates that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further submitted that the investigation has been completed and challan has already been presented before the competent Court of jurisdiction whereinafter charges have been framed on 08.12.2025. According to learned counsel, the petitioner is stated to be in custody since 15.09.2025 and has undergone incarceration for a substantial period of time. It has been further submitted that 16 prosecution witnesses have been cited, out of which none has been examined till date which reflects that the conclusion of trial is likely to take a considerable amount of time and, therefore, no useful purpose would be served for continued incarceration of the petitioner. Learned counsel has emphasized that the petitioner has clean antecedents and there is no likelihood of his absconding or tampering with the prosecution evidence. Learned counsel has further submitted that the

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earlier bail petition was dismissed as withdrawn with no adjudication on merits thereof and there has been a material change in circumstances on account of prolonged custody and delay in the trial. On the strength of aforesaid submissions, the grant of petition in hand is entreated for.

5. Learned State counsel has vehemently opposed the grant of regular bail to the petitioner on account of the present petition being non-maintainable as it is the second petition for grant of regular bail as also on merits thereof. On merits, learned State counsel has vehemently opposed the grant of bail to the petitioner by arguing that the allegations raised against the petitioner are serious in nature. According to learned State counsel, the petitioner is actively involved in the illicit trade of narcotic substances involving commercial quantity of contraband. According to learned counsel, the petitioner was apprehended at the spot and recovery of intoxicant tablets was effected from the polythene bag thrown by him thereby clearly establishing his conscious possession of the contraband. Furthermore, the contraband recovered from the petitioner is commercial quantity and hence the rigours of Section 37 of the NDPS Act squarely apply. According to learned counsel, the conduct of the petitioner itself indicates consciousness of guilt and the recovery effected is not accidental or planted as alleged. Furthermore, nothing tangible has been brought forward to indicate that the petitioner is entitled to regular bail despite there being statutory bar under Section 37 of the NDPS Act. Learned State counsel seeks to place on record custody certificate dated 05.07.2026 in Court today, which is taken on record. As per the said custody, the petitioner has suffered incarceration of 11 months and 02 days. In view of



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the nature of the allegations, learned State counsel has prayed for the dismissal of the instant petition.

6. I have heard learned counsel for the rival parties and have perused the available record.

7. It would be apposite to refer herein to a judgment passed by this Court in ***Rafiq Khan vs. State of Haryana and another: 2024: PHHC:054064***; relevant whereof reads as under:-

9. *The paramount issue, in any plea for grant of regular bail, is the liberty of an individual. Indubitably, within our society and jurisprudence, liberty is a cherished foundational principle and has fundamental ascendancy over all other attributes of social order. Even within the framework of Constitution, this principle is made conspicuous, inter alia, in Article 21 of our Constitution that no person shall be deprived of his personal liberty except according to procedure established by law. The Cr.P.C., 1973 is one such procedural law which permits curtailment of liberty of anti-social and anti-national elements. Yet, liberty of an individual, the accused, must not transgress the rights of another individual, the victim, in terms of right to dignified everyday life without any imminent fear or threat. Additionally, the rights of the collective of individuals viz. the State/Society at large, also cannot be neglected. Therefore, while countenancing the facts for considering the bail, the rights of the triad of accused, victim and the State (Society at large) ought to be entailed. Ergo, while considering a bail plea, the Court ought to take into account this core concept(s).*

9.1 *An analytical perusal of Cr.P.C. explicates that this statute does not contain any provision relatable to maintainability or otherwise of second/successive bail petitions, including one(s) seeking regular bail. Once there is no statutory prohibition provided for in law, a Court is not logically empowered to import into it such prohibitions, especially in case of codified and legislated law. It is trite law that Courts ought not to read a provision in codified law which has not been specifically provided for by the legislature especially when such reading results into deprivation of rights. The bar contained in Section 362 of Cr.P.C. can, by no stretch of legal imagination, be said to be barring the filing of second/successive regular bail petition.*



9.2 *The Hon'ble Supreme Court in case of **Babu Singh** case (supra) has held that rejection of a bail petition does not, by itself, forbid a Court from considering another one, later in point of time. Similar is the ratio decidendi of the judgment of Hon'ble Supreme Court in **Kalyan Chandra Sarkar** (supra). Ergo, it can be safely inferred that the decision of a Court qua regular bail petition is essentially an interlocutory order and hence the postulation of res judicata does not apply to its realm.*

9.3 *The issue that next craves attention is as to what are the factors/parameters for consideration of second/successive regular bail petition(s).*

9.4. *The concordant legal position is that the essential pre-requisite for consideration of second/successive regular petition is the material/substantial change in circumstances and factors of alike nature. Indubitably, the further period of incarceration suffered by the petitioner-accused after rejection/withdrawal of first/earlier plea for bail, pace of trial, the witnesses turning hostile or not supporting prosecution case and changed medical condition(s) of accused would be pertinent factor(s). It goes without saying that these factors are only illustrative in nature and cannot by any means be said to be exhaustive.*

9.5 *No rigid or universal criterion can possibly be delineated to conclusively govern the exercise of judicial discretion, in determining, as to what would constitute as the above stated substantial change in circumstances. Factual flexibility, one additional or different fact, may cause a sea of difference. There is no gainsaying that each case has its own distinct and unique facts and, hence, exercise of such judicial power is best left to the judicial discretion of a Court, in accordance with the settled norms of our jurisprudence.*

10. *As an epilogue to the above discussion, the following principles emerge:*

I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show



substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

8. At the outset, it is evident that this is a second petition for grant of regular bail, the earlier one having been dismissed as withdrawn. It is a settled position of law that subsequent bail petition can be entertained only upon demonstration of a substantial change in circumstances, which is conspicuously absent in the present case. The contentions raised by learned counsel for the petitioner were available to the petitioner at the time when the first petition for regular bail was dismissed. Thereafter, in the present petition, the petitioner has failed to bring forward fresh/substantial change in the circumstances which would indicate that the petitioner is entitled to maintain his second petition for grant of regular bail. For maintaining a second petition for bail, it is *sine-qua-non* to bring forth change in circumstances. This fact assumes more importance when no undue delay in trial has been brought forth. Mere passage of time or filing of challan etc., in



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the facts of the present case, cannot be treated as a sufficient ground for grant of bail. However, since the first regular bail petition was dismissed as withdrawn and there was no adjudication on merits thereof, this Court deems it appropriate to decide the instant one on merits thereof as well.

9. Indubitably, serious allegations have been levelled against the petitioner. As per the prosecution, the police, while conducting area patrolling near Sem Bridge, Himmatpura, apprehended two youths who identified themselves as Sandeep Singh alias Nikka (petitioner herein) and Ramandeep Singh alias Arshoo. From the possession of the petitioner, 30 peach coloured tablets weighing 4.32 grams of Etizolam salt, which is a commercial quantity, has been recovered while 20 grams of heroin was recovered from the co-accused Ramandeep Singh. The instant case involves commercial quantity of contraband and hence the statutory embargo contained in Section 37 of the NDPS Act squarely applies. At this stage, this Court is unable to record satisfaction that there exist reasonable grounds for believing that the petitioner is not *prima facie* involved in the alleged offence or that he is not likely to commit any offence of similar nature while on bail. The plea(s) of the petitioner that he was falsely implicated in the FIR and no recovery has been effected from him cannot, at this stage, absolve the petitioner of the serious allegations contained in the FIR. Furthermore, it is well settled that at the stage of consideration of plea for regular bail, particularly in cases involving commercial quantity under the NDPS Act, this Court is not required to conduct a detailed examination of the admissibility or reliability of evidence on record. In order to grant bail, the Court must be satisfied that there are reasonable grounds to believe that



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the accused is not guilty of the offence and that he is not likely to commit any offence while on bail. From the material available on record, the allegations against the petitioner point toward his active participation in a serious and well-organized criminal network.

10. As regards the plea of prolonged incarceration, nothing has been brought forward before this Court to form an opinion that the statutory embargo contained in Section 37 of the NDPS Act would not be applicable to the instant case. It would be apposite to refer herein to the judgment passed by the Hon'ble Supreme Court in ***SLP (Crl.)No.5020-2026*** titled as ***State of Punjab vs. Sukhwinder Singh @ Gora***, wherein it has been categorically held that in cases involving recovery of commercial quantity of contraband, the twin conditions as envisaged under Section 37 of the NDPS Act are required to be mandatorily satisfied before the concession of bail is to be granted. Mere prolonged incarceration by itself cannot be a ground for grant of bail. The relevant whereof reads thus:

“9. It is well-settled that in matters involving recovery of contraband in commercial quantity, the twin conditions under Section 37(1)(b)(ii) of the NDPS Act are mandatory and entail no relaxation merely on the ground that the accused has undergone prolonged incarceration during the pendency of trial. The provision casts upon the Court a duty to record, before enlarging an accused on bail, its satisfaction on two cumulative conditions, first, that there exist reasonable grounds for believing that the accused is not guilty of the offence charged; and second, that he is not likely to commit any offence while on bail. The recording of such satisfaction is not a mere formality but a mandatory pre-condition, the non-observance of which vitiates the grant of bail. This Court, in Kashif (supra), has held in no uncertain terms that the recording of satisfaction on the twin conditions under Section 37 is mandatory and not merely directory, and that an order granting bail without such recorded satisfaction stands vitiated and cannot be sustained. The same view stands reiterated in Lalrintluanga Sailo (supra).



10. *The impugned order, on its own showing, does not record the satisfaction mandated under Section 37(1)(b)(ii) of the NDPS Act. Far from recording such satisfaction, the High Court has gone on to observe that 'the rigours of Section 37 of the NDPS Act can be diluted bearing in mind the right to a speedy trial.' Such an approach is plainly contrary to the settled law laid down by this Court and deserves to be set aside on this ground alone. The right to speedy trial, rooted in Article 21 of the Constitution, is undoubtedly a precious Constitutional right. That said, in matters governed by a special enactment such as the NDPS Act, particularly where the recovery is of commercial quantity, the said right under Article 21 must be exercised within the framework of Section 37 and cannot be pressed into service solely on the ground of delay to override it. The constitutional right under Article 21 and the special provision of law under Section 37, NDPS Act are to be read harmoniously and not placed in opposition to each other. The High Court, by failing to record its satisfaction on the twin conditions under Section 37, has in this Court's view, committed an error."*

11. Furthermore, the petitioner has suffered total incarceration for a period of about 11 months and 02 days and the said period is not sufficient so as to afford regular bail to the petitioner in view of Article 21 of the Constitution of India. Reliance in this regard can be placed on the judgment of the Hon'ble Supreme Court titled as ***State of Punjab vs. Sukhwinder Singh @ Gora*** passed in SLP (Crl.)-5020-2026.

12. Considering the gravity of allegations, the statutory bar contained under Section 37 of the NDPS Act as also the absence of any substantial change in circumstances, this Court is of the considered opinion that the petitioner does not deserve the concession of regular bail in the factual *milieu* of the case in hand. The petition is, thus, devoid of merits and is hereby dismissed.

13. Any observations made and/or submissions noted hereinabove



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as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.

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

(SUMEET GOEL)
JUDGE

July 06, 2026
Ajay

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