



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

226

CRM-M-4034-2025

Date of decision: 15.10.2025

Gorkha Singh @ Gora

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Yagsimant Attri, Advocate for the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J.(ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No. 79 dated 09.08.2024 registered against him, for commission of offences punishable under Sections 21 (c), 29 of Narcotic Drugs and Psychotropic Substances, Act 1985 at Police Station Sadar Patti, District Tarn Taran, has prayed for grant of bail.

2. Relevant facts emerging from documents on record be noticed hereinbelow:-

On 09.08.2024 based on a chance recovery, Police team headed by SI Sukhdev Singh seized 351 grams of 'heroin' from possession of a person who introduced himself as Subhash Singh. After the statutory formalities were complied with, FIR was lodged. Aforementioned Subhash was interrogated who disclosed that he had purchased the contraband from Gorkha Singh @ Gora (petitioner), for supplying the same to Lovepreet Singh @ Anmol. For this transaction, he (Subhash) was assured Rs.20,000/-, to be paid by Gorkha Singh.

On 09.09.2024, the present petitioner-Gorkha Singh @ Gora,



whose name as noted above cropped in the disclosure statement of co-accused Subhash, was arrested. During interrogation, petitioner confessed to his involvement and disclosed that on the asking of co-accused Sukhchain Singh @ Chaina, he (P) had handed over the 'heroin' to co-accused Subhash Singh. Petitioner also disclosed that earlier also he had handed over heroin to co-accused Sukhchain Singh @ Chaina.

On culmination of investigation, challan was prepared and filed in the Court on 01.02.2025.

Petitioner/accused who was arrested on 09.09.2024 moved an application for grant of bail before the learned Judge Special Court, Tarn Taran. The same was dismissed vide order dated 23.12.2024. Aggrieved of the same, present petition has been filed.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated, he was neither found at the spot, nor any recovery was effected from him. He (petitioner) was nominated as an accused on the basis of disclosure statement made by the co-accused Subhash. This disclosure statement is not admissible in evidence, being confessional in nature made before the police authorities, in view of Section 25 of the Indian Evidence Act. Further the falsity of the case set up by the prosecution is apparent from the fact that despite the alleged recovery of contraband was effected from busy public place but no efforts were made to join any independent person as a witness to the case proceedings.

Continuing further, learned counsel submits that investigations in the present case are complete, for challan has been filed. Petitioner and other accused have been charged on 26.03.2025. However, out of 13 prosecution witnesses, none has been examined, thus, likelihood of



completion of trial in the near future is quite remote, further incarceration of petitioner in custody, would not serve any useful purpose and would also be violative of fundamental rights guaranteed under Article 21 of the Constitution of India. It has thus been prayed to take lenient view in petitioner's favour, who has been in custody since 09.09.2024, by extending him the concession of bail.

4. Opposing the petition, learned State Counsel submits that petitioner has been specifically named by the other accused, as the person at whose instance the contraband was to be supplied to other co-accused. Even otherwise, he (P) has questionable past antecedents, being involved in one other case of like nature (the details of which are mentioned in para No.5 of the Status report dated 22.07.2025). In view of the quantity of the contraband recovered from the co-accused arrested at the site, as per learned State counsel the rigors of Section 37 of NDPS Act are attracted which bar the grant of bail, unless the twin conditions prescribed in the provision are satisfied. In view of the case set up by prosecution, petitioner being the focal point at whose instance the contraband was to be supplied to other accused, as also having remained involved in similar case, it cannot be presumed that he is not involved in the offence or that he is not likely to commit the offence again, if extended the concession of bail. Dismissal of the petition has been prayed for.

5. I have heard the learned counsel for the parties and have gone through the documents on record.

6. Admittedly, the petitioner was not arrested at the site, neither any recovery was effected from him. Name of the petitioner cropped up in the disclosure statement of the co-accused, the admissibility and reliability



of the said statement is a question which would be decided during the course of trial based on the evidence adduced on the case file. It has been noticed that the petitioner is involved in another case of like nature, but nothing has come on record from where it can be inferred that he stands convicted in the said case.

At this stage it would be appropriate to refer to judgment of Hon'ble Supreme Court wherein case titled as ***Shambu Lal Gurjar Vs. State of Rajasthan, SLP Criminal 16671 of 2024***, decided on 23.04.2024, it was held as under:-

“The allegations against the petitioner is that there is a recovery of 60 kgs poppy husk/straw (contraband article) from him and prior to this incident, he has three criminal antecedents relating to the NDPS Act registered in the year 2019, 2021 and 2022. The third bail application of the petitioner was dismissed by the High Court. He has already undergone about 1 year and 8 months in jail.

Heard learned counsel for the petitioner and the respondent State.

Considering the fact that the contraband article is a poppy straw although he has three criminal antecedents but since he has been in jail for the last 1 year and 8 months, we are of the opinion that a case of bail is made out for the petitioner.”

Further in ***Chitta Bishwas @ Shubash Vs. State of West Bengal Law Finder Doc Id# 1938935***, considering the duration of custody and progress in trial, Hon'ble Supreme Court granted bail to an accused/appellant who was found in possession of 46 bottles of PHENSYDRYL Cough Syrup containing codeine mixture above commercial quantity.



In *Md Aliul Islam @ Aliul Islam @ Aliul Vs. State of West Bengal Law Finder Doc Id# 2734487*, Hon'ble Supreme Court granted bail to an accused, involved in a case under Section 21(c)/27A of NDPS, considering custody period and similarity with other accused, whose bail had been allowed.

Similarly in *Devrata Mondal Vs. State of West Bengal Law Doc Finder Id # 2734476*, on the ground of prolonged custody and parity with other accused, co-accused Davrata, who was allegedly caught keeping in his possession 290 bottles of PHENSYDRYL Cough Syrup (Commercial quantity) was granted the concession of bail by the Hon'ble Supreme Court.

In *Santarul Islam Vs. State of West Bengal, Law Finder Doc Id# 2735329*, Hon'ble Supreme Court granted bail to the petitioner who was also caught keeping in his illegal possession of PHENSYDRYL Cough Syrup (on the ground of prolonged custody and nature of contraband).

It is, thus, clear that criminal antecedents by themselves, is not a legal ground to deny the rigors of Section 37 of the NDPS Act, particularly in cases where the accused-petitioners are in custody for a long period.

Considering the fact that name of the petitioner cropped up in the disclosure statement of co-accused, as also the fact that he has been in custody since 09.09.2024, the likelihood of completion of trial is quite remote as out of 13 prosecution witnesses none has been examined till date and there is nothing on record to indicate that petitioner stands convicted in any other case of like nature, this Court is of the opinion that in the facts and circumstances as mentioned above, his (P) further incarceration in custody would not serve any purpose. Resultantly, in view of discussion made above, petitioner is granted the concession of bail subject to his furnishing bail/surety bonds to



the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

- (i) The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) The petitioner will not tamper with the evidence during the trial.*
- (iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- (vii) The petitioner shall not in any manner misuse his liberty.*
- (viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.*
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.*

7. Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this



order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)
JUDGE

15.10.2025

Hemant

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