



CRM-M-7089-2025 (O&M)

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

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**CRM-M-7089-2025 (O&M)
Decided on : 17.11.2025**

Harchand Singh @Chand

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present: Mr. Rajat Dogra, Advocate for the petitioner.

Mr. Rohit Bansal, Sr. DAG Punjab.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 21, 23 and 29 of the 'Narcotic Drugs and Psychotropic Substances Act', hereinafter being referred to as 'NDPS Act' only, the FIR No.258 dated 03.12.2023 has been lodged in Police Station Gharinda, District Amritsar. The petitioner is being prosecuted for the commission of abovementioned offence and he has been arrested. The petitioner is in custody and, therefore, craving for the concession of bail. This is first petition for bail filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being when a police party headed by Sub-Inspector Dharmender Singh was deputed on patrolling duty, and during the course of



abovementioned duty in Village Rorawala, they spotted two boys on a two-wheeler. As per prosecution, when for the purpose of checking, signal was given to them to stop their two-wheeler (Activa), the Activa got slipped, and thereafter one of the persons riding on abovementioned two-wheeler picked up a polythene wrap from the right pocket of his trouser, and attempted to throw it away. It is the case of the prosecution that he was overpowered by the police party, and when the contents of the abovementioned polythene back were checked, it was found that in the abovementioned wrap he was carrying 500 gms of heroin.

3. As per prosecution, on recovery of abovementioned contraband, the necessary formalities with regard to sealing & seizure of contraband, search of the person of accused, lodging of FIR, and arrest of the accused were performed. According to prosecution, thereafter the investigation of the case was taken up, and during the course of investigation, the above-named accused, namely Gurpreet Singh, suffered a disclosure statement, wherein he disclosed that the contraband was supplied to him by the petitioner. The prosecution has further alleged that pursuant to abovementioned disclosure statement, the petitioner was taken into custody, but despite interrogation, nothing has been recovered from the possession of petitioner.

4. Heard.

5. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime. According to learned counsel for the petitioner, the only evidence, collected



by the Investigation Agency against the petitioner, is the disclosure statement of co-accused, which is inadmissible evidence.

6. In addition to above, the learned counsel for the petitioner has also argued that the petitioner has already suffered a prolonged incarceration for being in custody for a period of more than 01 year and 02 months, and that the trial is not likely to be concluded in near future. As per learned counsel for the petitioner, the co-accused of the petitioner, namely Gurpreet Singh, has already been accorded the benefit of anticipatory bail by this Court, by virtue of order dated 14.08.2024.

7. *Per contra*, the learned State Counsel has argued that the petitioner has been nominated by his co-accused from whose possession the commercial quantity of contraband was recovered. According to learned State Counsel, since the recovered contraband from the possession of co-accused, namely Gurpreet Singh, comes within the ambit of commercial quantity, the petitioner is not entitled for the benefit of bail.

8. The record has been perused carefully.

9. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration, for arriving at any decision with regard to present petition for bail:-

- a) that the petitioner has already suffered a lot of incarceration for being in custody for a period of more than 01 year and 02 months;



- b) that out of 17 prosecution witnesses, none has been examined so far. Thus, the trial is not likely to be concluded in near future;
- c) that co-accused of the petitioner, namely Gurpreet Singh, has already been accorded the benefit of anticipatory bail by this Court, by virtue of order dated 14.08.2024;
- d) that nothing is left to be recovered from the possession of petitioner;
- e) that the trial is not likely to be concluded in near future;
- f) that detention of the petitioner in judicial lockup is not likely to serve any purpose;
- g) that for want of recovery of any contraband from the possession of petitioner, the rigors of Section 37 of NDPS Act are not applicable qua the case of petitioner;
- h) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and
- i) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in trial.

10. With regard to the legal aspect involved in the instant case, the principles of law laid down by the Hon'ble Supreme Court in the case of ***"Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131***, are relevant, wherein it has been observed that *"a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific*



offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

11. The principles laid down by the Hon’ble the Supreme Court of India in the case of **‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’**, 2022 LiveLaw (SC) 577, are also relevant in this case. In the abovementioned case, it has been observed that *“the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible*



adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

12. Recently, in the case of ***‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2022 INSC 222***, the Hon’ble Supreme Court of India has observed that *“if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”*. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that *“delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”*.

13. Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon’ble Apex court in ***“Balwinder Singh versus State of Punjab and Another”, SLP (Crl.) No.8523/2024***.

14. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.



15. Accordingly, without commenting anything on the merits of the case, the present petition is hereby *allowed*. The petitioner is hereby ordered to be released on bail on his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the following conditions:-

- (i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.
- (ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- (iii) that the petitioner shall not leave India without prior permission of the trial Court.

16. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

(SURYA PARTAP SINGH)
JUDGE

NOVEMBER 17, 2025
Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No