



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CRM-M-12453-2025
Decided on : 02.08.2025

Arwinder Kumar . . . Petitioner(s)
Versus
State of Punjab . . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Yashpal Thakur, Advocate
for the petitioner(s).

Mr. B.P. Singh, AAG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. The instant petition has been filed under Section 483 of BNSS, 2023 (earlier Section 439 Cr.P.C.), for grant of regular bail to the petitioner, during the pendency of trial, who has been booked in a criminal case arising out of First Information Report, as detailed here-under:-

Name of Petitioner(s)	FIR No.	Date	Section(s)	Police Station	District
Arwinder Kumar	58	27.03.2023	18-C of NDPS Act	Mandi Gobindgarh	Fatehgarh Sahib

2. As per the case of prosecution, there is recovery of 2 kg. 600 grams of ‘opium’ from the possession of petitioner, and petitioner is there inside jail since 27.03.2023. Except present case, petitioner is not found to be involved in any other case of similar nature.

3. Counsel submits that though all the prosecution witnesses have already been examined, but it requires some time for making necessary arrangement to lead his evidence in defence. In support of his contention, counsel relies upon the common order dated 29.07.2025, passed in CRM-M-50475-2023 (O&M) & connected case, titled as, “Krishna v. Union of India



through Narcotics Control Bureau, Chandigarh”, and reads out paragraphs

No.7, 8 & 9 of the same. For reference, same are reproduced here-under:-

“7. Having heard learned counsel for the parties and after perusing the record of the cases with their able assistance, it transpires that the petitioners are behind bars since 21.01.2021 and all the 16 prosecution witnesses have been examined except the Investigating Officer, whose cross-examination remains pending.

8. Be that as it may, the petitioners shall retain the right to lead evidence in their defence as it is an integral part of the right to free and fair trial, enshrined under Article 21 of the Constitution of India. The principles of natural justice dictate that no one shall be condemned unheard, as such it must be ensured that a fair and proper opportunity is provided to the accused to lead defence. Moreover, culpability of the accused, if any, shall be determined during the trial after both parties have had an opportunity to present their case. As such, detaining the petitioners further, without the prospect of the trial being concluded within reasonable dispatch and denying them the opportunity to defend themselves, would be in direct violation of their rights under Article 21 of the Constitution of India.

9. A two Judge Bench of the Hon’ble Supreme Court in Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed as under: -

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used



sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”.....”

4. It is observed that the petitioner has been in custody for over 2 years and 4 months. The issue of liberty of an accused under similar circumstances has already been considered by the Coordinate Bench in **Krishna's case (supra)**. Charges are yet to be framed in the present case. Moreover, the recovered quantity is marginally above the threshold of 'non-commercial' quantity. Therefore, whether the weighing process adopted by the Investigating Agency at the time of recovery was in accordance with the prescribed norms or not, becomes a relevant factor. Even a slight variation therein could potentially bring the recovered quantity below the 'commercial' category, which would materially affect the case of the prosecution.

5. *Per contra*, learned State counsel, while opposing the prayer for bail, submits that since all the prosecution witnesses have already been examined, the conclusion of trial is expected shortly. It is further argued that the offence in question pertains to the recovery of a substantial quantity of narcotic substance, which constitutes a grave threat to public health and safety. The menace of drug abuse continues to endanger the future of youth and undermine social well-being. Therefore, considering the seriousness and wider ramifications of the alleged offence, petitioner does not deserve the concession of bail at this stage.

6. Taking into consideration all the factors noticed here-above, along with the other relevant factual aspects, this Court deems it appropriate to extend the concession of bail to the petitioner.

7. Consequently, prayer made in the present petition is **allowed**. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety



bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

8. Needless to observe that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

9. The observation made here-in-above shall not be construed as an expression of opinion on the facts of the case and the Trial Court is expected to decide the case on the basis of complete evidence available on record.

10. It is further made clear that if, in future, petitioner is directly found indulged in similar kind of activities, this order shall be deemed to be cancelled.

11. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

August 02, 2025

J.Ram

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