



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-27018 of 2025

Date of Decision: 17.11.2025

Rajinder Singh

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Sunil Sihag, Advocate
for the petitioner(s).

Ms. Deepali Verma, Assistant Advocate General,
Haryana, for the respondent.

Surya Partap Singh, J.

1. For the commission of offence punishable under Sections 15C and 27A of the 'Narcotic Drugs and Psychotropic Substances Act, 1985', hereinafter being referred to as "the NDPS Act" only [as per reply filed by the State in the connected petition, i.e. CRM-M-53757-2025, Sections 25, 27A and 29 of the NDPS Act were added later on], the FIR No. 50 dated 25.01.2025 has been lodged in Police Station Rania, District Sirsa, Haryana. The Registry is directed to add the above mentioned Sections, which were added later on, in the head-note and prayer clause of the petition.

2. This is first petition, filed by the petitioner, for the benefit of anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred to as "BNSS" only.

3. Briefly stating the facts emerging from the record are that the FIR of this case came into being at the instance of SI Tarsem Singh. It was reported by the above named Sub Inspector that on 25.01.2025 when he was heading a police party and was performing duty at the barricades on canal bridge, a motorcycle was spotted. As per above named police official, when the above mentioned biker was signalled to stop the motorcycle, all of a sudden he tried to take a U-turn. As per above named police official, on the basis of suspicion the above mentioned person was apprehended and thereafter it was found that on the motorcycle he was carrying three sacks containing poppy husk. According to the above named police official when the weight of above mentioned sacks was measured, it was found that in three sacks he was carrying 56 kgs. & 550 grams of poppy husk.

4. It is the case of prosecution that in view of above mentioned recovery, the requisite formalities with regard to seal and seizure of contraband, lodging of FIR and arrest of the accused were undertaken. According to prosecution, thereafter the investigation of the case was taken up and during the course of investigation, the above named accused, namely Jaila Singh suffered a disclosure statement nominating therein Joga Singh and Harvinder Singh. It has been alleged by the prosecution that Jaila Singh has stated that the contraband was supplied to him by Joga Singh and Harvinder Singh and therefore, Harvinder Singh was arrested by the police party, who, on interrogation disclosed the name of Davinder Singh and Rajinder Singh (petitioner).

5. Heard.

6. It has been contended by learned counsel for the petitioner that

the petitioner was accorded the benefit of interim anticipatory bail and thereafter, he joined the investigation. According to learned counsel for the petitioner, nothing has been recovered from the possession of petitioner, and that the petitioner has been nominated by his co-accused from whose possession also nothing was recovered and he was nominated by the co-accused accused, namely Harvinder Singh. According to learned counsel for the petitioner, the disclosure statement of co-accused Harvinder Singh was recorded when he was in police custody and therefore, there is a big question with regard to admissibility of his disclose statement, in evidence.

7. In addition to above, the learned counsel for the petitioner has also argued that the co-accused Joga Singh, whose case stands on the same footing has already been accorded the benefit of anticipatory bail. In view of above mentioned arguments, it has been contended by learned counsel for the petitioner that the petitioner, who has already been joined in the investigation of the present case, is entitled for the benefit of bail.

8. Per contra, the learned State counsel has argued that there are very specific and categoric allegations against the petitioner with regard to his involvement in the commission of crime, and that the recovery of contraband from the possession of co-accused Jaila Singh comes within the ambit of commercial quantity and therefore, the rigors of Section-37 of the NDPS are applicable in the present case.

9. The record has been perused carefully.

10. A careful perusal of record shows that in the present case, there are several relevant factors which are required to be taken into consideration

for arriving at any decision with regard to instant bail petition:-

- i) that nothing has been recovered from the possession of petitioner;
- ii) that the petitioner has been nominated on the basis of disclosure statement of his co-accused from whose possession also, nothing has been recovered;
- iii) that there is a big question mark with regard to credibility and admissibility of disclosure statement suffered by the co-accused whereby the petitioner has been nominated, as the same was recorded when the maker of it was already in police custody and the above mentioned disclosure statement did not lead to recovery/discovery of any fact pertaining to the present case;
- iv) that there is nothing on record to show that custodial interrogation of the petitioner is likely to serve any purpose;
- v) that except the disclosure statement, there is nothing on record to show that the petitioner is connected with the commission of crime;
- vi) that nothing is left to be recovered from the possession of petitioner;
- vii) that there is nothing on record to show that if released on bail, the petitioner will tamper with the prosecution evidence or influence the witnesses;

- viii) that since nothing has been recovered from the possession of petitioner, therefore, rigors of Section-37 of the NDPS Act are not applicable to the present case; and
- ix) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.

11. With regard to the legal aspect involved in the instant case, it is relevant to mention that the Hon'ble Supreme Court in the case of "***Dataram versus State of Uttar Pradesh and another***", 2018(2) R.C.R. (Criminal) 131, has 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*

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.”

12. 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 above mentioned 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.”*

13. 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 above mentioned 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.”

14. 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*.

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

16. 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:-

- a) 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;
- b) 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 conclusion of trial; and
- c) that the petitioner shall not leave India without prior

permission of the trial Court.

17. 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.

18. It is, however, made clear that any observation made here-in-above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(Surya Partap Singh)
Judge

November 17, 2025
“DK”

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