



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

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**CRM-M No.27411 of 2025
Date of decision : 29.7.2025**

Abhy Singh @ Abhi**.....Petitioner****Versus****State of Punjab****.....Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Kushagra Mahajan, Advocate, for the petitioner

Mr. Jasjeet Singh, DAG, Punjab

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.28 dated 11.2.2025, under Sections 21(b) of Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 of NDPS Act added later on), registered at Police Station Chheharta, District Amritsar.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'SHO, Police Station Chehharta, Amritsar Jai Hind. Today, I. SI, along with ASI Gurmej Singh 3200, ASI Gurpratap Singh 2003, and ASI Gurmeet Singh 3666, carrying a laptop, printer, and necessary accessories in connection with patrolling and search of suspicious persons, were travelling in private vehicles from Police Station Chehharta to India Gate. When the police party reached near Match India Gate



during patrolling, one clean-shaven, Mulla Fashion young person was seen sitting on a stationary motorcycle at the turn, appearing as if he was waiting for someone. On seeing the police party, he suddenly panicked and tried to start the motorcycle. Upon suspicion, I, SI, with the help of fellow officials, apprehended him and asked for his name and address. He disclosed his name as Gurpreet Singh alias Gopi son of Jaswant Singh, resident of Gali Mata Rani Wali, Village Mahal, Ram Tirath Road, Amritsar. He suddenly tried to take out a polythene envelope from the right pocket of his lower garment and attempted to throw it on the road. I, SI, immediately caught him and questioned him about the contents of the envelope, to which Gurpreet Singh alias Gopi stated that it contained heroin, and out of fear, he was trying to dispose of it. Before checking the polythene envelope held in the right hand of the above said Gurpreet Singh alias Gopi, efforts were made to include a public witness in the police party, but everyone expressed their own inability and no one agreed. Therefore, in the presence of fellow police officials, I, SI, opened and checked the polythene envelope held in the right hand of the above said Gurpreet Singh alias Gopi, which led to the recovery of heroin. I, SI, weighed it using a digital scale and found it to be 50 grams of heroin. The heroin was packed in a plastic container and a cloth parcel was prepared and duly sealed with my seal marked "J.S." A separate sample seal bearing "J.S." was also prepared. After use, the seal was handed over to ASI Gurmej Singh 3200. The above said parcel containing 50 grams of heroin sealed with "J.S." and motorcycle bearing registration number PB02-BN-5307, make Honda Twister, black in color, were separately taken into police possession through recovery memos. At the spot, Form No. 4 was duly completed. Gurpreet Singh alias Gopi was found to have committed an offence under Section 21-B/61/85 of the NDPS Act by possessing 50 grams of heroin. Therefore, the present rukka (report) is being sent through ASI Gurpratap Singh 2003 to the police station for registration of FIR. After registration, the FIR number be communicated. Special report be issued and sent to the service of Area Magistrate and senior officers. Information also be given to the Control Room. I, SI, along with fellow police officials, am currently engaged in investigation at the spot. Today, near Turn India Gate, Chehharta, Amritsar at: 10:55 PM. Sd/- Jagga Singh, SI. Police Station Chehharta, Amritsar City Dated: 25.03.2025.'



3. Learned counsel for the petitioner has argued that the petitioner is in custody since 25.3.2025. Learned counsel has further iterated that the prime prosecution evidence available against the petitioner, as of now, is a disclosure statement made by co-accused. Learned counsel has further submitted that no recovery has been made from the petitioner in pursuance to the said disclosure. Learned counsel further submits that mandatory provision of NDPS Act has not been complied with and therefore, the prosecution case suffers from inherent defects. On the strength of these submissions regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel has further iterated that the petitioner is accused of offence pertaining to commercial quantity under the NDPS Act, and thus, his bail petition is barred in view of the Section 37 of the Act. Learned State counsel seeks to place on record custody certificate dated 28.7.2025 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 25.3.2025. It is not in dispute that the prime prosecution material available against the petitioner, for the *nonce*, is the disclosure statement made by the co-accused from whom 50 grams of heroin was recovered. Subsequently, there has been further recovery of 270 grams of heroin but not from the present petitioner and, in



fact, from another co-accused as per the case put up by the prosecution. The rival contentions raised at Bar give rise to debatable issues which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1 As per custody certificate dated 28.7.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 4 months. As per the said custody certificate, the petitioner is stated to be involved in four more FIRs registered. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586*; a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in *CRM-M No.38822-2022* titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.



Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.



10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

29.7.2025
Ashwani

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