



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

CRM-M No.32765 of 2025 (O&M)

Reserved on: 04.11.2025

Date of Decision: 10.11.2025

Sunita @ Shitu

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Argued By: Mr.A.S.Khaira, Advocate for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 22 and 27-A of Narcotic Drugs & Psychotropic Substances Act, 1985, the FIR No.07 dated 08.03.2025, has been lodged in Police Station Behrampur, District Gurdaspur. The petitioner has been arrested in the above mentioned case as an accused. Since the petitioner is in custody, he has filed the present petition for the benefit of bail. This is first petition under Section 483 of BNSS for grant of bail.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being when the chance recovery of contraband had taken place from the possession of petitioner.

3. As per case set up by the prosecution when a police party headed by Sub Inspector Gurmukh Singh was on patrolling duty, it is spotted a lady walking on foot. As per prosecution when the above said lady noticed that



there was a police party on her way ahead, in a panic mode she threw an envelope on the road side and tried to sneak away by taking a u-turn. As per prosecution, on the basis of suspicion when she was intercepted and search of her person was conducted as per laid down rules, she was found in possession of 40 intoxicant tablets of Tramadol Hydrochloride and drug money of Rs.4,000/-. As per prosecution, the total quantity of above mentioned contraband was 18.285 grams.

4. Heard.

5. The record has been perused carefully.

6. A perusal of the record shows that there are several factors which are required to be taken into consideration at this stage. They are:-

- i) that the petitioner has already suffered a long incarceration for being in custody for a period of 7 months and 25 days;
- ii) that being a lady she deserves a lenient view;
- iii) that the quantity recovered from the possession of petitioner is not a commercial quantity, and therefore, the rigors of Section-37 Narcotic Drugs & Psychotropic Substances Act 1985, are not applicable to the instant petition;
- iv) although the petitioner is facing several prosecutions but she has never been convicted for any offence in the past, otherwise also in view of law laid down by the Hon'ble Supreme Court of India in the case of **Prabhakar Tiwari Vs. State of U.P. (2020) 2 SCALE 448**, the filing of other cases against the petitioner is not a relevant factor;



- v) that nothing is left to be recovered from the possession of the petitioner;
- vi) that the trial of the case is not likely to be concluded in near future;
- vii) that detention of the petitioner in judicial lock-up is not likely to serve any purpose;
- viii) that there is nothing on record to show that if released on bail, the petitioner is likely to tamper with the evidence, or influence the witnesses;
- ix) that there is nothing on record to show that if petitioner is released on bail, he will not participate/co-operate in the trial.

7. 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”.

8. 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*”.

9. 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".

10. 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***.

11. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession of bail and the present petition deserves to be allowed.

12. 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 bail bonds and surety to the satisfaction of 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 from closing 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.

13. 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

10.11.2025
Manoj Bhutani

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