



CRM-M-34334-2025 (O&M)

1

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

208-II**CRM-M-34334-2025 (O&M)****Date of decision : 19.09.2025**

Gaganpreet Singh @Gagan

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present: Ms. Navjot Kaur, Advocate for
Mr. B.S. Bhalla, Advocate for the petitioner.

Mr. K.D. Sachdeva, DAG Punjab.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter being referred to as 'NDPS Act', the FIR No.389 dated 25.12.2023 has been recorded in Police Station STF SAS Nagar, Mohali, District SAS Nagar, Mohali. The petitioner is in custody in this case, and therefore, craving for bail. This is the third petition for bail, filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Learned State Counsel has filed status report as well as custody certificate of the petitioner. The same be taken on record.



3. Briefly stating the facts emerging from record are that the abovementioned FIR came into being in response to an information memo sent by ASI Kuldeep Singh to the Police Station. In the abovementioned memo, it was informed by the above-named ASI that on 25.12.2023, when he was heading a team comprising of 06 other police officials, he received a tip-off that Sonu, R/o Jawahar Nagar, Mehta Road, Amritsar and Anmol, R/o of Sultanwind, were involved in the sale of heroin, and that on that day, for the sale of drugs, they would go in car bearing No.PB46-AF-6806, towards Mandiala Road. According to above-named ASI, in view of abovementioned tip-off, he completed the formalities, as prescribed under Section 42 of NDPS Act, and started the checking of vehicles. According to above-named ASI, at about 04:10 pm, when the abovementioned car came, it was intercepted and on enquiry, it was found that Amritpal Singh @Anmol and Ranjit Singh @Sonu were travelling on the front seat of the car and Gaganpreet Singh (petitioner) on rear seat.

4. It was further stated by the above-named ASI that thereafter, the custody of abovementioned persons was handed over to ASI Parminder, the Investigating Officer of this case, who reached the spot to take-over the investigation and detained the abovementioned three persons and their car. He complied with the formalities, enshrined under Section 50 of NDPS Act.

5. It has been further alleged by the prosecution that thereafter on 06:52 pm, a Gazetted Officer, i.e. DSP Yogesh Kumar, arrived at the spot and in his presence, when search of the car was conducted, from the



dashboard of the car, one plastic packet was recovered and when the contents of the abovementioned packet were checked, 1.50 kg of heroin was found in it. As per prosecution, thereafter requisite formalities for seizure and arrest of the petitioner were undertaken. According to prosecution, on completion of investigation, the final report has been filed.

6. Notice of motion.

7. Mr. K.D. Sachdeva, DAG Punjab appears on behalf of respondent-State, and waives service. Learned State Counsel has filed status report as well as custody certificate of the petitioner. The same be taken on record.

8. Heard.

9. It has been contended on behalf of the petitioner that the petitioner is already in custody for a period of almost 01 year and 08 months, and that the trial is not likely to be concluded in near future. It has also been contended by learned counsel for the petitioner that the story, set up by the prosecution, is altogether false and the same is reflected from the fact that the call detail reports/tower locations of the petitioner as well as police officials do not support the prosecution story. It has further been contended by learned counsel for the petitioner that an improbable and unnatural story has been set up by the prosecution, as it has been projected that 07 police officials were travelling in a Swift car, which is next, too, impossible. As per



learned counsel for the petitioner, in the present case, there is no reasonably convincing evidence to show that the car belonged to the petitioner.

10. In view of abovementioned facts and circumstances of the case, it has been contended by learned counsel for the petitioner that in the present case there being a reasonable doubt with regard to prosecution story, and the trial not likely to be concluded in near future, the petitioner, who has no criminal antecedents, is entitled for the benefit of bail.

11. *Per contra*, learned State Counsel has argued that the contraband recovered from the possession of accused is commercial quantity, and that there are very categorical and specific allegations against the petitioner that he was in possession of contraband. According to learned State Counsel, since the petitioner has failed to comply with the twin conditions, enshrined under Section 37 of NDPS Act, he is not entitled for the benefit of bail.

12. The record has been perused carefully.

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

- a) that the petitioner has already suffered sufficient incarceration for being in custody for a period of more than 01 year and more than 08 months;



- b) that the trial is not likely to be concluded in near future as majority of witnesses are yet to be examined;
- c) that since investigation is already complete, nothing is left to be recovered from the possession of petitioner;
- d) that detention of the petitioner in judicial lockup is not likely to serve any purpose;
- e) that all the witnesses being official witnesses, there is no chance that if released on bail, the petitioner is likely to tamper with the evidence or influence the witnesses; and
- f) that there reasonable doubts, with regard to authenticity of story set up by the prosecution, as the ownership of the vehicle has not been proved and the tower locations of mobile phones of the petitioner & police officials are not supportive to prosecution story.

14. If the facts of abovementioned circumstances are taken into consideration, it transpires that the principles of law laid down by the Hon'ble Supreme Court of India in ***Criminal Appeal No.943/2023***, titled as '***Mohd. Muslim @Hussain Vs. State (NCT of Delhi)***' are applicable in the present case. In the abovementioned case, it has been observed by the Hon'ble Supreme Court of India that 'a plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on



a *prima facie* look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act’.

15. According to the Hon’ble Supreme Court of India, it has been observed that the standard to be considered therefore, is one, where the court would look at the material in a broad manner, and reasonably see whether the accused’s guilt may be proved. The judgments of this court have, therefore, emphasized that the satisfaction which courts are expected to record, i.e., that the accused may not be guilty, is only *prima facie*, based on a *reasonable reading*, which does not call for meticulous examination of the materials collected during investigation (as held in *Union of India v. Rattan Malik*). Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436A which is applicable to offences under the NDPS Act too (ref. *Satender Kumar Antil* supra). Having regard to these factors the court is of the opinion that in the facts of this case, the appellant deserves to be enlarged on bail.

16. It has further been observed by the Hon’ble Supreme Court of India that ‘laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable. Jails are overcrowded and their living conditions, more often than not, appalling’.



17. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to the conclusion that the petitioner is entitled for the benefit of bail. Therefore, without commenting anything on the merits of the case, the present petition is hereby allowed. Hence, petitioner is hereby admitted to bail subject to his furnishing bail bonds to the satisfaction of learned trial Court. It is, however, clarified that in case, the concerned Court is not available on the given date, the learned Sessions Judge would be at liberty to assign the abovesaid case, for the abovesaid purpose, to any other Court.

(SURYA PARTAP SINGH)
JUDGE

SEPTEMBER 19, 2025
Gaurav Thakur

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