

215 (1st case)**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-46090-2024 (O&M)****Date of decision : 26.05.2025**

Harjinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Sidharth Maini, Advocate
(through video conferencing) for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS'), for grant of bail pending trial to the petitioner in FIR No.40 dated 11.04.2024, under Sections 22 and 29 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station City Patti, District Tarn Taran.

2. Allegations are that 28020 tablets of Diphenoxylate Hydrochloride & Atropine Sulphate were recovered from the mirror box of the bus, petitioner was the driver and co-accused was conductor of the bus at relevant time.

3. Contends that petitioner remained in custody from 13.04.2024 to 30.01.2025 and he was granted interim bail by this Court on 30.01.2025 and has not misused the concession in any manner.



3.1 Also contends that there is no apprehension that petitioner is likely to pressurize the prosecution witnesses and/or hamper the trial, in any manner.

4. Learned State Counsel, on instructions, has fairly acknowledged the above factual position, but opposed the prayer on the premise that allegations against the petitioner are serious in nature.

5. Heard learned counsel for both the sides and perused the paper book.

6. It is a matter of record that petitioner was granted interim bail by this Court on 30.01.2025 and the order reads as under:-

“Status report by way of affidavit dated 29.01.2025 of Mr. Nirmal Singh, PPS, Deputy Superintendent of Police, Crime against Women and Children, District Tarn Taran, on behalf of respondent-State has been filed and the same is taken on record. Copy supplied to the other side.

Registry to tag the same at appropriate place.

2. *Allegations are that 28020 tablets of Diphenoxylate Hydrochloride & Atropine Sulphate were recovered from the mirror box of the bus, petitioner was the driver and co-accused was conductor at the relevant time.*

3. *It transpires that initially alleged contraband was recovered by the Inspector of Roadways, namely Manpreet Singh on 09.04.2024 and the same remained in his custody. Ultimately on 11.04.2024, the alleged contraband was entrusted to concerned police official, who recorded the proceedings, thereby showing conscious possession of petitioner-Harjinder Singh (driver) as well as one Baldev Singh (conductor).*



4. *Learned State counsel is not able to satisfy the Court that an Inspector from Roadways Department was competent to effect the recovery of alleged contraband from the accused under NDPS Act.*

5. *In such a scenario, prima facie, it appears that completely wrong procedure has been adopted by the Inspector Roadways, while acting as a police official. Consequently, this material irregularity would be a debatable question before learned Special Court during trial; hence, further incarceration of petitioner is not justified.*

6. *Learned State counsel seeks more time to ascertain as to whether Inspector of Roadways was competent to seize the contraband?*

7. *Posted for 17.03.2025.*

8. *In the meanwhile, petitioner be released on interim bail in the present case till the next date of hearing on furnishing adequate bail and surety bonds subject to the satisfaction of learned Special Court/CJM/Duty Magistrate concerned.”*

7. It is not in dispute that petitioner remained in custody from 13.04.2024 to 30.01.2025 and after granting interim bail vide order dated 30.01.2025, he never misused the concession. It transpires that petitioner was granted interim bail on the premise that, *prima facie*, wrong procedure was adopted by the Inspector of Roadways while acting as a police official. Even today, learned State counsel has failed to show as to whether Inspector of Roadways was competent to seize the contraband under the NDPS Act. Therefore, it would be a debatable question, during trial, as to whether the petitioner was found



in conscious possession of contraband and the same was recovered by the authorized person.

8. Consequently, present petition is allowed. Interim bail granted to the petitioner, vide order dated 30.01.2025, is made absolute. Petitioner shall be admitted to bail on furnishing bail/surety bonds to the satisfaction of learned Special Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9. Petitioner shall appear on each & every date of hearing and to fully co-operate with the learned Special Court without seeking any unnecessary adjournment(s).

10. Above observations be not construed as an expression of opinion on merits of case, in any manner.

11. It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Punjab would be at liberty to move an appropriate application for recalling of this order.

Pending application(s), if any, shall also stand disposed off.

26.05.2025

d.gulati

(MAHABIR SINGH SINDHU)
JUDGE

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