



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-44474 of 2025

Reserved On: 18.11.2025
Pronounced On: 29.11.2025

Hari Om Kumar

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

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

Present: Mr. S.S.Sandhawalia, 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 28, 18(c), 27B(ii), 17(B)(e), 27(a), 27(c) and 36AB of the Drugs and Cosmetics Act, 1940, hereinafter being referred to as “the Drugs Act”, the complaint No. COMA/10/2025 dated 02.06.2025 has been lodged in Police Station Sector 40, Gurugram, District Gurugram, Haryana.

2. This is first petition for bail, filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred to as “BNSS” only.

3. During the course of investigation of above mentioned case, the petitioner was arrested on 04.03.2025. The petitioner is in custody since then, and therefore, for the concession of bail he has approached this Court,

By virtue of present petition.

4. Briefly stating the facts emerging from the record are that pursuant to a complaint moved by the Drugs Control Officer Gurugram, the petitioner is being prosecuted for the commission of offence under Section 18A, punishable under Section 28, Section 18(c), punishable under Section 27(B)(ii), Section 17B(e), punishable under Sections 27(a), and 27(c) read with Section 36AB of the Drugs Act. The pith and substance of the above mentioned complaint is that the complainant, i.e. the Drugs Control Officer Gurugram received a written complaint from Vishwa Vijay Singh, Senior Manager, Anti Counterfeit Division, 'M/s Sun Pharmaceuticals Industries Limited', Delhi. It was complained by the above named person that spurious product, i.e. Head On (Somatropin) injection IP having a shelf life of 35 months was being sold. According to Mr. Vishwa Vijay Singh, for online sale of the medicine a delivery boy of courier agency had called him for delivery of the product at 03:00 P.M.

5. It has been alleged that in view of the above mentioned information, a team comprising of complainant (Drugs Control Officer Gurugram-I, Suresh Kumar, Drugs Control Officer Gurugram-II and Mukesh Kumar, Drugs Control Officer Gurugram-III, Vishwa Vijay Singh and Ishank Khair, Supervisor Brand Security, 'M/s Sun Pharmaceuticals Industries Limited', was constituted and when the delivery boy came to deliver the above mentioned drug at 03:20 P.M., the above mentioned drug was seized and its sample was taken. According to complainant, thereafter enquiries from the above mentioned delivery boy were made who disclosed that the abovesaid drug was booked for delivery by using mobile phone No.

9354069800.

6. The complainant has further alleged that the above mentioned mobile number belonged to Ankit Sharma, and when enquiries from Ankit Sharma were made, he disclosed that the above mentioned mobile number was being used by his friend Hari Om Kumar, the petitioner. The complainant has further alleged that on 03.03.2025, in view of the above mentioned information provided by Ankit Sharma, the residence of the petitioner was raided and from his possession spurious drugs were recovered.

7. According to complainant, in view of the above mentioned recovery, the prosecution has been launched by virtue of above said complaint.

8. Heard.

9. It has been contended on behalf of petitioner that the petitioner is innocent, and that no recovery of any drug has been effected from the possession of petitioner. According to learned counsel for the petitioner, the drug which was allegedly recovered from the possession of delivery boy has been tested by the laboratory of 'M/s Sun Pharmaceuticals Industries Limited' and the test report of the above mentioned laboratory (Annexure P4) shows that Somatropin content was not found in the sample. According to learned counsel for the petitioner, when the drug allegedly recovered from the delivery boy allegedly booked by the complainant was not containing any bad substance, any offence is not made out.

10. In addition to above, the learned counsel for the petitioner has also argued that otherwise also, the petitioner has already faced a prolonged incarceration for being in custody for a period of more than eight & half

months, and that nothing is left to be recovered from the possession of petitioner, and that the trial is not likely to be concluded in the near future and therefore, the petitioner is entitled for the benefit of bail.

11. The learned State counsel has controverted the above mentioned arguments. According to learned State counsel, the allegations against the petitioner are serious in nature, as he was involved in the sale of drugs purported to be manufactured by 'M/s Sun Pharmaceuticals Industries Limited', whereas in fact, the above mentioned tablets were not produced by the above mentioned company. According to learned State counsel, the severity of the offence committed by the petitioner increases manifold when it is found that the drug being sold by the petitioner was not having the requisite salt. The learned State counsel has contended that the above mentioned act virtually amounts to playing with the life of patients. The learned State counsel has prayed for dismissal of the present petition in view of gravity of offence.

12. The record has been perused carefully.

13. 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. Those factors are:-

- i) that the petitioner is already in custody since 04.03.2025, i.e. for a period of approximately nine months;
- ii) that nothing is left to be recovered from the possession of petitioner;
- iii) that the trial is not likely to be concluded in near future;
- iv) that further detention of the petitioner is not likely to

serve any purpose;

- v) that there is no criminal history of the petitioner except one case under the POCSO Act;
- vi) that there is nothing on record to show that while on bail, the petitioner is likely to tamper with the evidence or influence the witnesses; and
- vii) that there is nothing on record to show that while on bail the petitioner will not participate/cooperate in the trial.

14. 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 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.”

15. 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) 10 SCC 51**, 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.”*

16. Recently, in the case of **‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322** 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.”

17. 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 2024 SCC Online SC 4354*.

18. 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 bail, and that the present petition deserves to be allowed.

19. 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.

20. 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.

21. 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 29, 2025
“DK”

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