

CRM-M-47233-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47233-2024
Reserved on: 06.03.2025
Pronounced on: 27.03.2025

Gurmail Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Piyush Sharma, Advocate,
for the petitioner.

Mr. Adesh Pal Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
56	22.06.2024	Sadar Jalalabad, District Fazilka	21 C, 23 of NDPS Act and 10, 11, 12 of Aircraft Act

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. As per paragraph 8 of the bail petition and the reply dated 03.11.2024, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1	255	22.08.2023	21/61/85 of NDPS Act	STF Sector 79, Mohali

3. The facts of the case are being taken from the status report dated 03.11.2024 filed by the State, which reads as under:-

- “4. That precisely the facts of the case are as under:-*
- a) That the present FIR was registered as per letter of AC Coy Commander 'B' Coy 52 BN BSF BOP Jodha Bhaini wherein it was stated that operation on 22.06.2024 during search carried out by the B.S.F. officials in the area of BOP Jodha Wala, recovery of a drone and 01 packet containing heroin weighing 520 grams heroin was effected. Said recovered drone and contraband was handed over to police authorities of PS Sadar, Jalalabad. In the said letter, names of four persons were mentioned as suspected persons involved in the drone activity.*
- b) As per letter supra, FIR no.56 dated 22.06.2024 was registered under*

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section 21 (c), 23 of NDPS Act and sections 10, 11, 12 of Aircraft Act Sadar, at police station, Jalalabad against present petitioner, Baldev singh son of Balbir Singh, Charanjeet Singh alias Channi son of Jeet Singh residents of village Jodha Bhaini and Kulwinder Singh son of Sona Singh resident of village Hazara Ram singh wala.

c) That after registration of said FIR, recovered contraband and drone were taken into police custody as per law.

d) That petitioner was arrested on 22.06.2024 and 10 grams Heroin and a mobile phone make LAVA was recovered from the petitioner. On being enquired, the petitioner categorically disclosed that petitioner and other co-accused are indulged in cross border smuggling of heroin.

e) That on 23.06.2024 present petitioner Gurmail Singh was produced before the Ld.Court of JMIC Jalalabad where the Ld.Court also drew the samples of recovered contraband and the said accused was sent under three days police remand.

f) That the samples recovered contraband were sent to R.T.F.S.L. Bathinda on 24.06.2024 and its report has been received wherein it has been categorically reported as under:

"The content of the envelopes 1A and 2A under reference have been analyzed separately by chemical, TLC and instrumental analysis. On the basis of analysis, diacetylmorphine (Heroin) has been found present in contents of the envelopes 1A and 2A."

g) That the recovered drone was sent to Forensic Technique Delhi, through Mr. Balbir Singh, AC Coy Comdr 52 Bn BSF B-Coy 52 Battalion BSF and its report is still awaited.

h) That co-accused Baldev Singh joined investigation on 07.09.2024 in pursuant to the order dated 05.09.2024 passed by this Hon'ble Court in CRM-M-43610-2024.

(i) That co-accused Kulwinder Singh alias Gindi and Charanjeet Singh alias Channi are yet to be arrested in the present case. Police is making strenuous efforts to nab the absconding accused. Investigation of present FIR is still underway."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

5. The State's counsel opposes bail.

6. After perusing the reply, this Court found it appropriate to know the duration for which the petitioner was interrogated in custody. In response to that, the concerned

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Deputy Superintendent of Police, has filed reply in which it has been mentioned that the police remand of the petitioner was initially given for three days and after that, on 26.06.2024 the application for further police remand was rejected.

7. It would clearly point out that the petitioner's total police custody would be four days i.e. first twenty hours prior to production before the concerned Judicial Magistrate and 03 days police remand as granted by the concerned Judicial Magistrate. Thus, 04 days police custody in the given facts cannot be said to be too less. Further, the police never asked for more custody.

8. Now, coming to the evidence against the petitioner, it would be appropriate to refer to para 5 (d) of reply dated 05.03.2025, which reads as follows:

“d) That petitioner was arrested on 22.06.2024 and 10 grams heroin and a mobile phone make LAVA was recovered from the petitioner. On being enquired, the petitioner categorically disclosed that petitioner and other co-accused are indulged in cross border smuggling of heroin.”

9. In addition to this, it would be appropriate to refer to para 5 of the reply dated 03.11.2024, which reads as follows:

“ROLE OF PETITIONER:

5. That as per investigation carried out so far, role of the petitioner has been established to the effect that the petitioner and his accomplice are actively indulged in cross border trafficking of contraband. The petitioner has categorically confessed his guilt in his own disclosure statement. Moreover, 10 grams Heroin has also been effected from the petitioner. Therefore, the petitioner cannot shirk his criminal liability.”

10. Thus, in the entirety of facts and circumstances and the evidence collected against the petitioner as mentioned in the reply (supra) and considering the petitioner's custody from 22.06.2024 i.e. the date he was arrested, it is not a case for further pre-trial incarceration.

11. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

12. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

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13. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

14. This order is subject to the petitioner’s complying with the following terms.
15. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.
16. The possibility of the accused influencing the investigation, tampering with evidence, intimidating witnesses, and the likelihood of fleeing justice can be taken care of by imposing elaborative and stringent conditions. In *Sushila Aggarwal v. State (NCT of Delhi)*, 2020:INSC:106 [Para 92], (2020) 5 SCC 1, Para 92, the Constitutional Bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions.
17. Given the background of allegations against the petitioner, it becomes paramount to protect the members of society, detection squad, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearms. [This restriction is being imposed based on the preponderance of the evidence of probability and not of evidence of certainty, i.e., beyond a reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days of release from prison and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and reclaim them in case of acquittal in this case, provided otherwise permissible under the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.
18. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation**

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of this bail before the Sessions Court, which shall have the liberty to cancel this bail.

19. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

20. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

21. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

27.03.2025

Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.