



CRM-M-45386-2025 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-45386-2025 (O&M)
Reserved on : 16.10.2025
Pronounced on : 30.10.2025

Kuldeep Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by: Mr. Puneet Bali, Advocate for the petitioner.

Mr. Eklavya Darshi, DAG Punjab.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter being referred to as 'NDPS Act' only, the FIR No.96 dated 28.06.2021 has been lodged in Police Station Amargarh, District Malerkotla. The petitioner is being prosecuted for the commission of abovementioned offence and he has been arrested. The petitioner is in custody and, therefore, craving for bail. This is third petition, filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The bail petitions, moved by the petitioner, were dismissed as withdrawn vide orders dated 08.05.2024 and 13.08.2025, respectively.

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2. In nut-shell, the facts emerging from record are that the FIR of this case came into being when ASI Janpal Singh, who was heading a police party and discharging patrolling duty, got a tip-off from an informer that Gurcharan Singh @Pauli and Balwinder Singh @Rubi were involved in the sale of poppy husk, and that they had procured large quantity of poppy husk from Madhya Pradesh and Jharkhand. According to abovesaid informant, if raid is conducted, they might be found in possession of large quantity of poppy husk.

3. According to the prosecution, in view of abovementioned information, the necessary formalities with regard to information to the police station were performed by the above-named ASI, and thereafter, the raid was conducted, and during raid, 30 plastic bags containing 300 kg of poppy husk were recovered from a room adjacent to Dharamshala. It is the case of the prosecution that name of Balwinder Singh @Rubi had cropped-up at the very instance, when a tip-off was given by the informant and during investigation, on the basis of disclosure statement of accused Balwinder Singh @Rubi, petitioner was nominated as accused.

4. Heard.

5. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that he has been simply roped-up in the present case, on the basis of disclosure statement suffered by the co-accused. According to learned counsel for the petitioner, the abovementioned disclosure statement was

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recorded when the co-accused was already in police custody, and therefore, the same is not admissible in evidence.

6. In addition to above, it has also been argued by learned counsel for the petitioner that the petitioner is already in custody for a period of almost 04 years, and that the trial is not likely to be concluded in near future. With regard to former two bail petitions, it has also been argued by learned counsel for the petitioner that the abovementioned bail petitions were not decided on merit as the same were dismissed as withdrawn. According to learned counsel for the petitioner, one of the main accused in the present case is Gurcharan Singh @Pohli, he has already been accorded the benefit of bail. With regard to above, it has also been argued by learned counsel for the petitioner that on the ground of parity, the petitioner is entitled for the benefit of bail.

6. The learned State Counsel has controverted the abovementioned arguments. According to learned State Counsel, in the present case the quantity of recovered contraband comes within the ambit of commercial quantity, and therefore, rigors of Section 37 of NDPS Act are applicable. It has also been argued by learned State Counsel that this is third bail petition, and there is no significant change in circumstances.

7. The record has been perused carefully.

8. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration, before



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arriving at any decision with regard to present petition for bail. Those factors are: -

- i) that the former bail petitions, moved by the petitioner, were not decided on merit, rather the same were dismissed as withdrawn vide orders dated 08.05.2024 and 13.08.2025;
- ii) that the petitioner was not found in conscious or actual physical possession of contraband;
- iii) that the benefit of bail has already been afforded to co-accused, whose name had cropped-up in the secret information itself;
- iv) that the petitioner has already served a lot of incarceration for being in custody for more than 04 years;
- v) that nothing is left to be recovered from the possession of petitioner;
- vi) that detention of the petitioner in judicial lockup is not likely to serve any purpose;
- vii) that there is nothing on record to show that if released on bail, the petitioner may influence the witnesses; and
- viii) that the earlier petitions were not disposed of on merits, and further the prolonged incarceration of the petitioner, despite the fact that the trial has not yet commenced, constitutes a change in circumstances which renders the present petition maintainable .

9. With regard to the legal aspect involved in the instant case, it is relevant to mention here 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*



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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”.

10. 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*



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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”.

11. 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.

12. 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.

13. 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 bonds to the satisfaction of learned 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 to disclose 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



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in address to the trial Court, till the final disposal of the case;
and

(iii) that the petitioner shall not leave India without prior permission
of the trial Court.

14. 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

OCTOBER 30, 2025
Gaurav Thakur

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