

**Sr. No.208(1)****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-50354-2024 (O&M)****Date of decision: 26th May 2025****NIRPAL SINGH ALIAS NIRPAL GUJJAR****.....Petitioner****versus****STATE OF PUNJAB****.....Respondent****CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Raj Kumar Gupta, Advocate with
Mr. Gaurav Rana, Advocate
for the petitioner.

Mr. Satjot Singh, Asst. A.G., Punjab.

HARPREET KAUR JEEWAN, J. (ORAL)

1. This is the second petition filed under Section 483 of the BNSS, 2023 for grant of regular bail to the petitioner in FIR No.104 dated 03.09.2022, under Sections 15/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as '*the NDPS Act*'), registered at Police Station Chabbewal, District Hoshiarpur (Annexure P-1).
2. The first petition bearing No.CRM-M-14042-2024, filed by the petitioner seeking regular bail, was dismissed as withdrawn vide order dated 05.08.2024.
3. As per the prosecution case, co-accused Rohit Kumar @ Rohit Bhardwaj was in Police custody in another FIR No.140 dated 28.7.2022, Police Station Mahilpur. When he was interrogated in that case, he confessed that previously, one case had been registered against him due to which, he was on a run and he had insufficient funds to apply for bail. Regarding this, he had a talk with petitioner-Nirpal Gujjar and another person namely



Balwinder Singh @ Binder, who advised him that they would provide him poppy husk and he can sell the same to earn money and apply for his bail. Thereafter, he started selling poppy husk by keeping the same in a Zen Car. After selling some poppy husk, he concealed the remaining three bags of poppy husk in the jungle by digging the earth. However, 54 kgs of poppy husk was recovered from him by the Police.

4. Learned counsel for the petitioner contends that the petitioner is behind bars since 19.06.2023. The petitioner has been falsely implicated in the present case. It is further contended that no recovery has been effected from the petitioner. The conclusion of trial is likely to take time.

5. Learned State counsel has filed custody certificate dated 23.05.2025, reflecting his actual period of custody as 01 year, 11 months and 04 days, which is taken on record.

5.1 Learned State counsel opposes the prayer made by the petitioner on the ground that huge quantity of contraband has been recovered from the co-accused of the petitioner, which falls within the commercial quantity. He submits that as per the custody certificate, the petitioner is also involved in FIR No.174/2022, under Sections 15/25/29-61-85 of the NDPS Act, registered at Police Station CBI, Delhi; FIR No.263 dated 19.07.2023, under Section 52-A of the Prisons Act, registered at Police Station City Hoshiarpur; and FIR No.157/2021, under Sections 8, 15, 25 and 29 of the NDPS Act, registered at Police Station Sadar Chittorgarh. However, he has confirmed that no recovery has been effected from the petitioner in the present case as well as in FIR No.174/2022 and FIR No.157/2021.

6. Learned counsel for the petitioner submits that the petitioner has been released on bail in other criminal cases registered against him, as



mentioned in the custody certificate. As per the order dated 15.01.2025, the High Court of Delhi has released the petitioner on bail in FIR No.174/2022 dated 17.08.2022 and even in the said case, the petitioner had been implicated on the basis of disclosure statement of his co-accused. He further contends that the said fact has been mentioned in Para 19.2 of the order passed by the Hon'ble Delhi High Court. Copy of the said order has been submitted in the Court today, which is taken on record.

6.1 Learned counsel for the petitioner further contends that in FIR No.157/2021 also, the petitioner has been released on bail by the High Court of Judicature for Rajasthan and Jodhpur, vide order dated 19.12.2024. Copy of the said order has been submitted in the Court today, which is taken on record. He further contends that in the said case, the contraband was recovered from the co-accused of the petitioner and no recovery was effected from the petitioner, as mentioned in Para No.5 of the said order. He further submits that in all the cases that have been registered against the petitioner under the NDPS Act, no recovery has been effected from him. Even in the present case, no recovery has been effected from the petitioner.

7. I have considered the aforesaid contentions and perused the paper book.

8. The Hon'ble Apex Court of India, in **"State by (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta and Another, 2022 (1) R.C.R. (Criminal) 762**, held as under:-

“ xxxxxxxxxx

9. *Having gone through the records alongwith the tabulated statement of the respondents submitted on behalf of the petitioner-NCB and on carefully perusing the impugned orders passed in each case, it emerges that except for the voluntary statements of A-1 and A-2 in the first case and that of the*



respondents themselves recorded under Section 67 of the NDPS Act, it appears, prima facie, that no substantial material was available with the prosecution at the time of arrest to connect the respondents with the allegations levelled against them of indulging in drug trafficking. It has not been denied by the prosecution that except for the respondent in SLP (Crl.) No.1569/2021, none of the other respondents were found to be in possession of commercial quantities of psychotropic substances, as contemplated under the NDPS Act.

*10. It has been held in clear terms in **Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1**, that a confessional statement recorded under Section 67 of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act. In the teeth of the aforesaid decision, the arrests made by the petitioner-NCB, on the basis of the confession/voluntary statements of the respondents or the co-accused under Section 67 of the NDPS Act, cannot form the basis for overturning the impugned orders releasing them on bail. The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial. For the aforesaid reason, this Court is not inclined to interfere in the orders dated 16th September, 2019, 14th January, 2020, 16th January, 2020, 19th December, 2019 and 20th January, 2020 passed in SLP (Crl.) No@ Diary No. 22702/2020, SLP (Crl.) No. 1454/2021, SLP (Crl.) No. 1465/2021, SLP (Crl.) No. 1773-74/2021 and SLP (Crl.) No. 2080/2021 respectively. The impugned orders are, accordingly, upheld and the Special Leave Petitions filed by the petitioner-NCB seeking cancellation of bail granted to the respective respondents, are dismissed as meritless. xxxxxxxxx”*

9. This Court in the case of “**Vikrant Singh Versus State of Punjab**”, CRM-M-39657-2020, held as under:-

“It is not in dispute that the petitioners have not been named in the FIR. No recovery has been effected from the petitioners and the alleged recovery has been effected from two co-accused Rakesh Sharma and Ravdeep Singh alias Sheru. The petitioners are sought to be implicated solely on the basis of the disclosure statement made by the co-accused Rakesh Sharma and Ravdeep Singh @ Sheru and even after the petitioners were arrayed as accused in pursuance of the disclosure statements, no recovery had been made from the petitioners.

The petitioners have been in custody since 06.11.2020 (Vikrant Singh), 05.12.2020 (Subash Chander) and 23.04.2021 (Davinder Singh) and challan in the present case has already



been presented and there are 32 witnesses, out of whom only one has been examined and thus, the trial is likely to take time on account of Covid-19 Pandemic. The petitioners are not involved in any other case. With respect to the call details, suffice to say that no dates on which the said calls had been allegedly made by the co-accused, Rakesh Sharma and Ravdeep Singh alias Sheru to the petitioners or vice-versa have been mentioned in the affidavit or in the report under Section 173 Cr.P.C. Moreover, even the transcript of the said conversations are not a part of the record under Section 173 Cr.P.C. A Division Bench of this Court in Narcotics Control Bureau's case (supra), was pleased to observe as under:-

Still further, no conversation detail between accused Ramesh Kumar Patil and accused Sandeep has been produced by the prosecution. Mere call details is not sufficient to prove that Sandeep accused was also involved in the business of narcotic drugs or he had any connected with Ramesh Kumar Patil.

In view of the above, no case is made out for grant of leave to appeal against acquittal of Sandeep accused.”

10. In the instant case, the petitioner is named in the disclosure statement of his co-accused and no recovery whatsoever has been effected from him. Further, the petitioner is in custody for the last 01 year, 11 months and 04 days. Conclusion of trial is going to take time. Keeping in view the facts and circumstances of this case, keeping the petitioner in custody pending trial is not warranted.

11. Thus, without commenting anything on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/intimidate the prosecution witnesses.



(iii) The petitioner will appear before the trial Court on the date fixed, unless his personal presence is exempted.

(iv) The petitioner shall not commit an offence similar to the offence of which he is accused, or for commission of which he is suspected.

(v) 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 from disclosing such facts to the Court or to any police officer or tamper with the evidence.

12. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

13. Pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

26th May 2025
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>