



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

107-I

CRM-M-51442-2024

Date of decision: 28.10.2025

Kulwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. P.S. Sekhon, Advocate for the petitioner.

Mr. Kamalpreet Bawa, DAG, Punjab.

AARADHNA SAWHNEY, J.(ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No. 15 dated 06.06.2023 registered against him, for commission of offences punishable under Sections 21, 25, 27-A, 29, 61 and 85 of Narcotic Drugs and Psychotropic Substances, Act 1985 at Police Station State Special Operation Cell, Amritsar, Intelligence Wing (CID), has prayed for grant of bail.

2. In brief, the case set up against petitioner is that he and one Balihar Singh were caught red handed while keeping in their illegal possession 550 grams of 'Heroin' (Commercial Quantity). Drug money of Rs.2,50,000/- was also recovered from their vehicle. Documents on record further reveal that petitioner and the co-accused were arrested, when a nakka was laid on the basis of secret information received by police team headed by ASI Jagdeep Singh. After the statutory formalities were completed at the site, formal case vide FIR No. 15 dated 06.06.2023 under Sections 21, 25, 27-A, 29, 61 and 85 of the NDPS Act was registered. Samples were drawn from the recovered contraband, sealed and sent to FSL. As per report, 'Diacetylmorphine' (heroin) was found in the samples.

On culmination of investigation, challan was prepared and filed in the Court on 29.11.2023.



3. Petitioner/accused who was arrested on 06.06.2023 moved an application for grant of bail before the learned Additional Sessions Judge, Tarn Taran. The same was dismissed vide order dated 20.12.2023. The first bail application of the petitioner filed before this Court was dismissed as not being pressed for, vide order dated 07.05.2024.

4. Learned counsel submits that petitioner has been falsely implicated in the present case. He was neither driving the vehicle nor the same was registered in his name. No recovery was effected from his (P) person. He was falsely arrayed as accused in the present case, at the instance of one Sukhjinder Singh on account of some personal enmity. In fact, the allegations leveled by Sukhjinder Singh in the said complaint were also found to be false. Only with a view to level scores with the petitioner, he was falsely planted in the present case (one of police officer being relative of Sukhjinder Singh). Further, as per the case set up by prosecution, the nakka was laid on the basis of secret information, but no efforts were made to join any independent person as a witness to the case proceedings and no reason is forthcoming for this procedural lapse. Statutory formalities were also not complied with.

Continuing further learned counsel submits that investigations in the present case were completed long ago. Challan was filed on 29.11.2023, but till date out of 19 witnesses only 1 has been examined, this clearly indicates that the possibility of completion of trial in the near future is quite remote. In view of the above submissions raised, it has been prayed that further incarceration of the petitioner in custody, would not serve any useful purpose and would also be violative of his fundamental rights guaranteed under Article 21 of the Constitution of India. It has thus been prayed to take lenient view in petitioner's favour, who has been in custody since 06.06.2023 by extending him the concession of bail. Prayer for allowing the petition has been made.



5. Status report by way of an affidavit of Mr. Balbir Singh, PPS, Deputy Superintendent of Police, Amritsar has been placed on record. Learned State counsel has opposed the request for grant of bail on the ground that contraband recovered from the petitioner is 'Commercial Quantity'. In view of the quantity of the contraband recovered from the petitioner and co-accused arrested at the site, as per learned State counsel the rigors of Section 37 of NDPS Act are attracted which bar the grant of bail, unless the twin conditions prescribed in the provision are satisfied. Dismissal of the petition has been prayed for. During the course of submission, on a query raised by this Court, learned State counsel frankly admits that petitioner is not involved in any other criminal case.

6. I have heard the learned counsel for the parties and have gone through the documents on record.

7. Before proceeding to discuss the rival contentions, it would be appropriate to refer to judgment of Hon'ble Supreme Court wherein case titled as ***Shambu Lal Gurjar Vs. State of Rajasthan, SLP Criminal 16671 of 2024***, decided on 23.04.2024, it was held as under:-

"The allegations against the petitioner is that there is a recovery of 60 kgs poppy husk/straw (contraband article) from him and prior to this incident, he has three criminal antecedents relating to the NDPS Act registered in the year 2019, 2021 and 2022. The third bail application of the petitioner was dismissed by the High Court. He has already undergone about 1 year and 8 months in jail.

Heard learned counsel for the petitioner and the respondent State.

Considering the fact that the contraband article is a poppy straw although he has three criminal antecedents but since he has been in jail for the last 1 year and 8 months, we are of the opinion that a case of bail is made out for the



petitioner.”

Further in ***Chitta Bishwas @ Shubash Vs. State of West Bengal Law Finder Doc Id# 1938935***, considering the duration of custody and progress in trial, Hon’ble Supreme Court granted bail to an accused/appellant who was found in possession of 46 bottles of PHENSYDRYL Cough Syrup containing codeine mixture above commercial quantity.

In ***Md Aliul Islam @ Aliul Islam @ Aliul Vs. State of West Bengal Law Finder Doc Id# 2734487***, Hon’ble Supreme Court granted bail to an accused, involved in a case under Section 21(c)/27A of NDPS, considering custody period and similarity with other accused, whose bail had been allowed.

Similarly in ***Devrata Mondal Vs. State of West Bengal Law Doc Finder Id # 2734476***, on the ground of prolonged custody and parity with other accused, co-accused Davrata, who was allegedly caught keeping in his possession 290 bottles of PHENSYDRYL Cough Syrup (Commercial quantity) was granted the concession of bail by the Hon’ble Supreme Court.

In ***Santarul Islam Vs. State of West Bengal, Law Finder Doc Id# 2735329***, Hon’ble Supreme Court granted bail to the petitioner who was also caught keeping in his illegal possession of PHENSYDRYL Cough Syrup (on the ground of prolonged custody and nature of contraband).

Reverting back to the facts of the case in hand, considering the fact that petitioner has been in custody since 06.06.2023, challan was filed way back on 29.11.2023, the likelihood of completion of trial is quite remote for out of 19 prosecution witnesses only 01 has been examined till date. Further there is nothing on record to indicate that petitioner is involved in any other case of like nature. This Court is, thus, of the opinion that in the



facts and circumstances as mentioned above, his (P) further incarceration in custody would not serve any purpose. Resultantly, in view of discussion made herein above, petitioner is granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

- (i) The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) The petitioner will not tamper with the evidence during the trial.*
- (iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- (vii) The petitioner shall not in any manner misuse his liberty.*
- (viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.*
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.*



8. Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

9. Learned trial Court is directed to expedite the trial and dispose of the same on or before 30.04.2026. Learned District and Sessions Judge, Tarn Taran is also directed to send the compliance report to this Court.

(AARADHNA SAWHNEY)
JUDGE

28.10.2025
Hemant

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