



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

222

CRM-M-49966-2025 (O&M)
Date of decision : 02.12.2025

Shera Singh @Guddu

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Laghuinder Singh Sekhon, Advocates for the petitioner.

Mr. Rohit Bansal, Sr. DAG Punjab.

SURYA PARTAP SINGH, J. (oral)

1. For the commission of offence punishable under Sections 15 and 29 of the 'Narcotic Drugs and Psychotropic Substances Act', hereinafter being referred to as 'NDPS Act' only, the FIR No.18 dated 15.03.2024 has been lodged in Police Station Ghagga, District Patiala. 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 first petition for bail filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being on 15.03.2024. As per prosecution a police team headed by ASI Pargat Singh was deputed for usual checking on checking post, and during the course of abovementioned duty at about 11:30 pm, the



abovementioned police team spotted a car coming from Village Dawan Kheri side. As per report, submitted by the above-named officer, when the signal was given to the abovesaid car to stop, he abruptly tried to take a U-turn and ran away from the spot.

3. It is the case of the prosecution that in view of abovementioned suspicious behaviour, the abovementioned car was intercepted, the driver of the car was apprehended, who on enquiry disclosed his name as Rubal, and on checking, it was found that in the abovementioned car, there were three white colour plastic bags on the rear seat of the car. As per prosecution when the contents of those bags were examined, it was found that the bags were full of poppy husk.

4. It is the further case of the prosecution that on measurement, the quantity of abovementioned bag came out to be 150 kg, and that on recovery of abovementioned contraband, necessary formalities with regard to seizure & sealing of contraband, lodging of FIR, and arrest of the accused were performed, and further investigation taken up. As per prosecution, during the course of investigation when the accused Rubal was interrogated, he stated that on the instructions of Shera Singh @Guddu (petitioner herein), he was going to Rajasthan to deliver the abovementioned contraband.

5. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record. However, no formal reply has been filed by the State and the learned State counsel has opted to orally oppose the present petition.

6. Heard.



7. 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 was not found in conscious possession of contraband allegedly recovered from the possession of co-accused Rubal. According to learned counsel for the petitioner, the petitioner has been implicated, merely, on the basis of disclosure statement of co-accused Rubal, and that the abovementioned disclosure statement is inadmissible in evidence, as the same was recorded, when the co-accused Rubal was in police custody.

8. In addition to above, the learned counsel for the petitioner has also contended that the petitioner has already suffered a long incarceration for being in custody for a period of eight and a half months, and that except one case under NDPS Act, the petitioner has not been prosecuted for any other offence.

9. *Per contra*, the learned State Counsel has argued that in the present case, the quantity of contraband recovered in this case comes within the ambit of commercial quantity, and therefore, without satisfying the twin conditions enshrined under Section-37 of NDPS Act, the benefit of bail cannot be afforded to the petitioner. However, this fact has not been disputed by the learned State Counsel that the petitioner has been implicated on the basis of disclosure statement, suffered by his co-accused Rubal.

10. The record has been perused carefully.

11. To deal with given fact-situation, the principles of law laid down by the Hon'ble Supreme Court of India in the case of '*Vijay Singh Vs.*



The State of Haryana' 2023 SCC OnlineSC 1235 are relevant. In the above mentioned case, the petitioner was not present on the spot at the time of recovery and he was implicated solely on the basis of statement of co-accused. The Hon'ble Supreme Court of India in the above mentioned case afforded the benefit of bail to the accused.

12. Similarly, in the case of '*Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence' 2018(8) SCC 271*, it has been held by the Hon'ble Supreme Court of India that the disclosure statement of co-accused is inadmissible against another accused, as the disclosure statement is not a substantive piece of evidence against other accused.

13. Similar principle has been laid down by the Hon'ble Supreme Court of India in the case of '*Preet Kamal Vs. State of Punjab' 2018(4) RCR (Criminal) 938*, wherein it has been held that the disclosure statement of an accused can be used only against the person making the same, and not against the co-accused.

14. In '*Tofan Singh Vs. State of Tamil Nadu' 2021(4) SCC 1* also, it has been observed by the Hon'ble Supreme Court of India that confessional statement of accused recorded under Section 67 of NDPS Act cannot be admitted in evidence, as a confession.

15. A perusal of the record shows that there are several factors which are required to be taken into consideration in the present petition at this stage. Those factors are:-



- (i) that the only evidence available against the petitioner is the disclosure statement of his co-accused and there is a big question mark with regard to credibility or admissibility of above-mentioned statement in evidence, as the same was recorded when the maker of it (Rubal) was already in police custody. Since pursuant to above-mentioned disclosure statement no recovery or discovery of fact has taken place, the same is prima facie hit by Section-23 of Bharatiya Sakshya Adhiniyam
- (ii) that the petitioner has already suffered prolonged incarceration for a period of eight and a half months;
- (iii) that nothing is left to be recovered from the possession of petitioner;
- (iv) that trial is not likely to be concluded in near future;
- (v) that detention of petitioner in judicial lock up is not likely to serve any purpose;
- (vi) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and
- (vii) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

16. In the present case, the principles of law laid down by the Hon'ble Supreme Court in the case of "***Dataram versus State of Uttar Pradesh and another***", 2018(2) R.C.R. (Criminal) 131, are also relevant, wherein it has been 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”.

17. The principles laid down by the Hon’ble the Supreme Court of India in the case of **Satender Kumar Antil (supra)**, 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 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”.

18. 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 abovementioned 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*”.

19. 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.

20. If the cumulative effect of all the abovementioned 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.

21. 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:-

- (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 in address to the trial Court, till the final decision of the trial; and
- (iii) that the petitioner shall not leave India without prior permission of the trial Court.

22. 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

02.12.2025

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No