



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

227

CRM-M No.51199 of 2025 (O&M)
Date of Decision:26.11.2025

Gurpreet Singh @ Jatta

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr.Kulwinder Singh, Advocate for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 22/29/61 of Narcotic Drugs & Psychotropic Substances Act, 1985 [Section 27 of NDPS Act and Section 111 of BNS added later on], the FIR No.42 dated 22.03.2025 has been lodged in Police Station Sadar Rupnagar, District Rupnagar. The petitioner has been arrested in the above mentioned case as an accused. Since the petitioner is in custody, he has filed the present petition for the benefit of bail. This is first petition for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being when a police party spotted two persons, one male and one female, sitting on a cemented bench and searching something in an envelope kept between them. According to prosecution, when they noticed the presence of police party they got nervous, and therefore, on the basis of suspicion when the contents of above mentioned polythene bag were checked, it was found that in the above mentioned bag they were carrying 12 injections



‘Buprenorphine’ (2 ml each). According to prosecution in view of above mentioned recovery necessary formalities with regard to seizure and sealing of psychotropic substance, lodging of FIR and arrest of petitioner were performed, and further investigation undertaken. As per prosecution during the course of investigation when the above named person ‘Manjit Kaur’ and ‘Rinku Singh’ were interrogated, they suffered their respective disclosure statement, wherein they nominated the present petitioner as supplier of the contraband.

3. Notice of motion.

4. Since advance notice has already been served upon the State, Mr. I.P.S. Sabharwal, DAG, Punjab, appears on behalf of respondent-State, and waives service.

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

6. Heard.

7. It has been contended on behalf of the petitioner that petitioner is innocent having no nexus, whatsoever with the commission of crime. According to learned counsel for the petitioner nothing has been recovered from the possession of petitioner and that he has been simply implicated in the present case in view of nomination by his co-accused. As per learned counsel for the petitioner, the petitioner has already suffered a lot of incarceration for being in custody for a period of more than 7 ½ months and that nothing is left



to be recovered from the possession of petitioner.

8. Per contra, the learned State counsel has argued that the allegations against the co-accused of the petitioner are with regard to recovery of commercial quantity of psychotropic substance, i.e. 12 injections of 'Buprenorphine', which is a commercial quantity. According to learned State counsel irrespective of the fact that no recovery was effected from the possession of petitioner, without satisfying the rigors of Section-37 of Narcotic Drugs & Psychotropic Substances Act 1985, the benefit of bail cannot be afforded to him.

9. To deal with given fact-situation, the principles of law have been laid down by the Hon'ble Supreme Court of India in the case of **Special Leave to Appeal (Crl.) No.1266/2023 titled as 'Vijay Singh Vs. The State of Haryana'**. 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.

10. Similarly, in the case of **'Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence' 2018(3) RCR (Criminal) 954**, 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.

11. 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.

12. 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.

13. It is also relevant to mention here that from the possession of co-accused of the petitioner, commercial quantity of contraband has been recovered and that is why, the learned Special Judge has observed that rigors of Section 37 of the NDPS Act are applicable in the present case. However, in this regard, the law propounded by the Hon’ble Supreme Court of India in the case of **‘Mohd. Muslim @Hussain Vs. State (NCT of Delhi), 2023 AIR SC 1648**, is relevant, wherein the Hon’ble Supreme Court of India has ruled that principles of fairness embodied under Article 21 of the Constitution override the statutory restrictions on grant of bail under Section 37 of the NDPS Act.

14. The record has been perused carefully.

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

- i) that nothing is left to be recovered from possession of petitioner;
- ii) that petitioner has suffered a long incarceration for being in custody for a period of 7 ½ months;
- iii) that the only evidence available against the petitioner is the



disclosure statement suffered by the co-accused, who was already in police custody, at the time of recording of statement.

Thus there is a big question mark with regard to credibility and admissibility of such a disclosure/confessional statement;

- iv) that the trial of the case is not likely to be concluded in near future;
- v) that detention of the petitioner in judicial lock-up is not likely to serve any purpose;
- vi) that since nothing has been recovered from the possession of accused the rigors of Section-37 of Narcotic Drugs & Psychotropic Substances Act, 1985, are not applicable in the present case;
- vii) that there is nothing on record to show that if released on bail, the petitioner is likely to tamper with the evidence, or influence the witnesses;
- viii) that there is nothing on record to show that if petitioner is released on bail, he will not participate/co-operate in the trial.

16. With regard to the legal aspect involved in the instant 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 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 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 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***’, **2022 INSC 222**, 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***”, **SLP (Crl.) No.8523/2024**.

20. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession 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 from closing 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

26.11.2025
Manoj Bhutani

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