



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-52208 of 2025

Reserved On: 03.11.2025
Pronounced On: 06.11.2025

Kuldeep Masih alias Gori

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Rajiv Kumar Saini, Advocate
for the petitioner(s).

Mr. I.P.S.Sabharwal, Deputy Advocate General,
Punjab, for the respondent.

Surya Partap Singh, J.

1. For the commission of offence punishable under Sections 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter being referred to as “the NDPS Act” only, the FIR No. 102 dated 30.09.2023 has been lodged in Police Station Sadar, Gurdaspur District Gurdaspur, Punjab.

2. During the course of investigation of above mentioned case, the petitioner was arrested on 30.09.2023. The petitioner is in custody since then, and therefore, for the concession of bail he has approached this Court, by virtue of present petition. This is second petition for bail, filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred to as “BNSS” only.

3. Briefly stating the facts emerging from the record are that the FIR of this case came into being when in a case of chance recovery,

contraband weighing 1 kg. & 40 grams was recovered from the possession

of three persons, namely Kuldeep Masih, Sandeep Masih alias Kali and Raman Masih, who were travelling on a bike. It is the case of prosecution that as per laid down procedure the formalities with regard to search, seizure, filing of FIR and arrest of the above named three persons were carried out and thereafter, the investigation in the present case was taken up. According to prosecution, during the course of investigation when the accused, namely Kuldeep Masih was interrogated, he suffered a disclosure statement wherein he stated that along with them, the petitioner was also involved in the trade of narcotic substance and that in the past they had sold a huge quantity of drug. It is the case of prosecution that in view of above mentioned disclosure statement, the petitioner was taken in to custody and sent to face trial before the Court.

4. Heard.

5. It has been contended on behalf of the petitioner that the petitioner has been falsely implicated in the present case and that at the time of recovery, no independent witness was joined. According to learned counsel for the petitioner, otherwise also, the petitioner is facing long incarceration for being in custody for a period of two years and the detention of petitioner in judicial lock-up is not likely to be served any purpose.

6. In addition to above, it has also been argued by learned counsel for the petitioner that merely on the basis of allegations levelled by the prosecution, the petitioner cannot be kept in judicial lock-up, as untill the charges against the petitioner are proved, there is a presumption that he is innocent. According to learned counsel for the petitioner, the trial in the present case is not likely to be concluded in near future and therefore, the

petitioner is entitled for the benefit of bail.

7. Per contra, the learned State counsel has argued that the petitioner is the person from whose possession a large quantity of contraband had been recovered, and that the recovered contraband comes within the ambit of commercial quantity. It has also been argued by the learned State counsel that the trial is progressing at a reasonable pace, as out of ten, three prosecution witnesses have already been examined.

8. In addition to above, the learned State counsel has also argued that quantity of recovered contraband being commercial quantity, the rigors of Section-37 of the NDPS Act are applicable in the present case. As per learned State counsel, the petitioner has failed to comply with the mandatory twin conditions enshrined under Section 37 of the NDPS Act.

9. The record has been perused carefully.

10. A perusal of record shows that from the date of dismissal of second bail petition, there is no significant change in the circumstances pertaining to the present case. Although, the benefit of anticipatory bail has been accorded to the co-accused, namely Sachin, but the same cannot be considered to be a change in circumstance with regard to petition moved by the petitioner, as nothing was recovered from the possession of co-accused, namely Sachin and his name cropped up during investigation, on the basis of disclosure statement of co-accused only.

11. In the present case, it is also relevant to mention here that the quantity of contraband recovered from the possession of petitioner is commercial quantity and therefore, without satisfying the twin conditions enshrined under Section-37 of the NDPS Act, the petitioner cannot claim the

benefit of bail. Since the petitioner has failed to comply with the above mentioned condition, it is hereby held that he is not entitled for the benefit of bail and the present petition being devoid of merits, deserves dismissal. Hence, the present petition is hereby dismissed, accordingly.

(Surya Partap Singh)
Judge

November 06, 2025
“DK”

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