



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-52127 of 2025

Reserved On: 03.11.2025
Pronounced On: 06.11.2025

Harpal Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

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

Present: Mr. Karnail Singh Ahhi, 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 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 07.03.2024. 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.

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 petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that he has been falsely implicated in the present case. According to learned counsel for the petitioner, the petitioner has also suffered a long incarceration for being in custody for a period of almost one year & eight months, and that nothing has been recovered from the possession of petitioner. It has also been contended by learned counsel for the petitioner that the only evidence against the petitioner is the disclosure statement of his co-accused, and that the same is not admissible in evidence, as the above said disclosure statement was recorded when the co-accused, namely

Kuldeep Masih was already in police custody.

6. With regard to change of circumstance from the date of dismissal of former bail petition, it has been argued by learned counsel for the petitioner that after the dismissal of earlier bail petition of the petitioner, which was not decided on merits, the benefit of anticipatory bail to co-accused, namely Sachin, has been accorded. According to learned counsel for the petitioner, the allegations against the petitioner are exactly similar to the allegations being faced by Sachin.

7. Per contra, the learned State counsel has argued that in the present case, the recovery of contraband from the possession of co-accused of the petitioner is more than 1 kg. of heroin, which is a huge quantity coming within the ambit of commercial quantity. As per the learned State counsel, in view of above mentioned facts, without satisfying the twin conditions enshrined under Section-37 of the NDPS Act, the petitioner cannot be given the benefit of bail. According to learned State counsel, any of the twin conditions enshrined under Section-37 of NDPS Act, does not stand satisfied with in the present case.

8. The record has been perused carefully.

9. A perusal of the record shows that the only allegation against the petitioner is that his co-accused, namely Kuldeep Masih suffered a disclosure statement wherein he stated that like him, the petitioner, too, had been trading in heroin in an illegal manner. However, there is nothing on record to show that the petitioner had ever purchased such drug, or that he had ever sold such drug, or that he was found in possession of any drug.

10. In view of above, the following are the relevant factors which

are necessary to be taken in to consideration for decision of the present petition:-

- I) that the petitioner has already suffered a long incarceration for being in custody for a period of almost one year & eight months;
- ii) that nothing has been recovered from the possession of petitioner;
- iii) that the trial is not likely to be completed in near future;
- iv) that nothing is left to be recovered from the possession of petitioner;
- v) that there is nothing on record to show that if released on bail, the petitioner may tamper with the prosecution evidence or influence the witnesses;
- vi) that detention of petitioner behind the bars is not likely to serve any purpose;
- vi) that the rigors of Section-37 of the NDPS Act are not attracted in the present case qua petitioner, as the recovery of contraband had not taken place from the possession of petitioner;
- vii) that the allegations contained in the FIR itself shows that there is change in the circumstance from the date of dismissal of former bail petition as it was not decided on merits; and
- viii) that the benefit of anticipatory bail has been accorded to a similarly placed co-accused.

11. 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 the present petition deserves to be allowed. Hence, the petitioner is admitted to bail subject to his furnishing bail bonds to the satisfaction of learned trial Court. In case, the learned trial Court concerned is not available on the date of furnishing bail bonds, the learned Sessions Judge shall be at liberty to assign the above case, for the above-mentioned purpose, to any other Court.

12. It is, however, made clear that any observation made here-in-above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(Surya Partap Singh)
Judge

November 06, 2025

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No