



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

03

**CRM-M-52491-2025
Reserved on :21.11.2025
Pronounced on: 27.11.2025**

KHUSHAAL SAINI @ KHUSHAL SAINI

.....PETITIONER

Versus

STATE OF PUNJAB

..... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

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

Mr. J.S. Thind, DAG, Punjab.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 21(c), 25, 27-A, 29, 61 and 85 of the Narcotics Drugs & Psychotropic Substance Act 1985, hereinafter being referred as “NDPS”, the FIR No.57 dated 27.04.2024, has been lodged in Police Station Division No.1 Police Commissionerate, Jalandhar. With regard to commission of above mentioned offence, the petitioner has been arrested. He is in custody, and therefore, craving for the concession of bail. This is 2nd petition for bail in this Court, filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 hereinafter being referred to as “BNSS” only.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being at the instance of Sub Inspector Sukhraj Singh. It was



reported by the above-named police officer that on 27.04.2024, when he was heading a police party deputed for patrolling duty, at Bhagat Singh Colony bypass he spotted one Innova Car bearing Registration No.PB-08-BS-2958 heading towards GT road. As per above-named Police officer for the purpose of usual checking, when he signalled the car-driver to stop, instead of stopping the car, he tried to flee from the spot. According to above-named police officer, in view of above-mentioned suspicious behavior the car was intercepted and its driver was apprehending, who on enquiry disclosed his name as Satnam Singh @ Babby. As per report submitted by the above-named police officer, on the basis of suspicion, when search of the car was conducted, a black colour bag was found therein and on checking, it was revealed that there were 08 packets of Heroin in the above-mentioned bag. On measurement the weight of each packet came out to be 01 kg. (total 8 kg.).

3. It is the case of the prosecution that pursuant to above-mentioned recovery, requisite formalities with regard to seizure and sealing of contraband, lodging of FIR and arrest of accused were performed and further investigation taken up. According to prosecution during the course of investigation, when the above-named accused Satnam Singh was interrogated, he suffered several disclosure statements, one after the other, and in the above-mentioned disclosure statements he revealed the names of the persons who were involved in the trade of sale and purchase of Heroin. The prosecution has further alleged that the petitioner, too, was nominated by the accused Satnam Singh in his disclosure statement.

4. Heard.

5. It has been contended by learned counsel for the petitioner that the



petitioner is innocent having no nexus, whatsoever, with the commission of crime and that the petitioner was not found in possession of any drug and he has been nominated by his co-accused Satnam Singh.

6. The learned counsel for the petitioner has further contended that the above-said disclosure statement was recorded when the accused Satnam Singh was in custody and that the disclosure statement did not led to discourage of any fact related to this case and therefore, the same is inadmissible in evidence, being hit by Section-23 of “Bharatiya Sakshya Adhiniyam”.

7. The learned State counsel has controverted the above-mentioned submissions. It has been contended by learned State counsel that in the present case very huge quantity of contraband has been recovered from the possession of co-accused, and that the disclosure statement suffered by the main accused, namely Satnam Singh, makes it abundantly clear that, the present petitioner and other co-accused were operating as a gang involved in the trade of narcotic substance, and that the petitioner was one of the drug dealer, who used to purchase drugs from Satnam Singh and sell it to various users. As per learned State counsel since the quantity of contraband recovered from the possession of co-accused Satnam Singh comes within the ambit of commercial quantity, without satisfying the twin conditions enshrined under Section-37 of NDPS Act, the benefit of bail cannot be afforded to the petitioner.

8. In support of his arguments, the learned State counsel has referred to the principles of law laid down by the Hon’ble Supreme Court of India in the case of ***The State (NCT of Delhi) Narcotics Control Bureau v. Lokesh Chadha, (2021) 5 SCC 724***, wherein it has been held that no person accused



for offences involving a commercial quantity shall be released on bail, where the public prosecutor opposes the application, unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

9. The record has been perused carefully.

10. As far as the principles governing the benefit of bail in a case related to NDPS Act, are concerned, the principles of law laid down by the Hon'ble Supreme Court in the case of ***'Mohd. Muslim @ Hussain v. State (NCT of Delhi), 2023 SCC OnLine SC 352*** are relevant, wherein the Hon'ble Supreme Court has held that grant of bail on account of undue delay in trial cannot be said to be fettered under Section 37 of the NDPS Act, given the imperative of Section 436-A which is applicable to offences under the Act.

11. In this regard it is also relevant to mention here that the Hon'ble Supreme Court of India in the case of ***Manmandal and Another v. State of West Bengal, Special Leave Petition (Criminal) No.8656 of 2023 decided on 14.09.2023*** and ***Rabdi Prakash v. State of Odisha, 2023 SCC Online SC 110***, extended the benefit of bail to the accused, who had been incarcerated for a period of almost 2-3 years and the trial was likely to take considerable time. The above-mentioned benefit has been given by observing that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article-21 of the Constitution, and in such a situation, the constitutional principles must override the statutory embargo contained under Section-37 of the NDPS Act.

12. In addition to above, in a recently pronounced verdict in the case of ***Santosh Pawar Vs. State of Chhattishgarh & Anr.' Criminal Appeal***



No.4883/2025, the Hon'ble Supreme Court observed that rigours of Section 37 of NDPS Act will not be a bar for considering the case of an accused for bail as it comes with a condition that the prosecution would press for an early completion of trial. In the above-mentioned case the Hon'ble Supreme Court of India held that appellant who was being prosecuted for being in possession of commercial quantity of narcotic substance, was entitled for bail in view of her incarceration for a period of 19 months.

13. Similarly in another case i.e. in the case of ***Satender Kumar Antil v. Central Bureau of Investigation (2022) 10 SCC 51*** prolonged incarceration and inordinate delay engaged the attention of the Hon'ble Supreme Court of India, which considered the correct approach towards bail, with respect to several enactments, including Section 37 NDPS Act. The court expressed the opinion that Section 436A (which requires inter alia the accused to be enlarged on bail if the trial is not concluded within specified periods) of the Criminal Procedure Code, 1973 would apply.

14. In the case of ***Ismail Khan @ Pathan vs. State of Rajasthan Criminal Appeal No.4911 of 2025*** with regard to recovery of commercial quantity of narcotic substance the Hon'ble Supreme Court of India accorded the benefit of bail to the accused in view of prolonged incarceration for a period of 02 years and 08 months of the accused.

15. The similar benefit has been taken in another appeal i.e. ***SLP No.15699-2025 titled as Ebrahim @ Ibrahim SK vs. The State of West Bengal*** and in the case of ***Pamesh Arora vs. UT Chandigarh Criminal Appeal No.4872 of 2025***.

16. To deal with given fact-situation, the principles of law 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'* are also 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.

17. 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.

18. 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.

19. 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.

20. If the facts and circumstances of the present case are analyzed in the light of above-mentioned principles of law, it transpires that:-

- (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 admissibility of above-mentioned statement in evidence, as the same was recorded when the maker of it (Satnam Singh) was already in police custody. Since pursuant to above-mentioned disclosure statement no recovery or discovery of fact took 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 more than 01 year, 06 months and 12 days;
- (iii) that the trial is not likely to be concluded in near future;
- (iv) that nothing is left to be recovered from the possession of petitioner;
- (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.
- (viii) that although this is second petition in this Court, but the same is maintainable as the first petition was not decided on merits, and otherwise also from the date of dismissal of former petition no significant progress in trial has taken



place. The prolonged incarceration without speedy trial provides a cause for filing second petition to the petitioner.

21. If the cumulative effect of all the above-mentioned 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.

22. 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 his 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.

23. 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

27.11.2025

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