



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1 (214/2) CRM-M-55525-2024
Date of decision: May 7th, 2025
Malkeet Singh @ Malkiat Singh
.....Petitioner

Versus

State of Punjab
.....Respondent

2 (237) CRM-M-6209-2025
Prince Singh @ Prince
.....Petitioner

Versus

State of Punjab
.....Respondent

3 (245) CRM-M-10046-2025
Shamsher Singh @ Shera
.....Petitioner

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Gobind Singh Randhawa, Advocate
for the petitioner (in CRM-M-55525-2024).

Mr. Ruhani Chadha and Mr. Amit Sharma, Advocates
for the petitioner (in CRM-M-6209-2025).

Mr. Ranjodh Singh Sidhu, Advocate
for the petitioner (in CRM-M-10046-2025).

Mr. Shiva Khurmi, Assistant Advocate General, Punjab.

MANJARI NEHRU KAUL, J.

This order shall dispose of the above-mentioned petitions as they arise out of the same FIR i.e. FIR No.26 dated 23.08.2023 under Section 25 of The Arms Act, 1959, Sections 109, 115, 120 of the IPC and Sections 21, 25, 29, 61 of The NDPS Act, 1985, registered at Police Station State Special Operation Cell, Amritsar, whereby petitioners-Malkeet Singh @ Malkiat Singh, Prince Singh @ Prince and Shamsher Singh @ Shera are seeking the concession of regular bail,

2. Learned counsels appearing on behalf of the petitioners submit that petitioners-Malkeet Singh and Prince Singh have been in custody since 23.08.2023, while petitioner-Shamsher Singh was taken into custody on 20.12.2024. It is submitted that petitioners- Malkeet Singh and Prince Singh were intercepted by the police while allegedly driving in the company of co-accused Manpreet alias Manna, and were found in possession of certain firearms. No narcotic substance was recovered from either of them at the time of their apprehension.

3. The subsequent recovery of 280 grams of heroin, it is contended, was allegedly effected from the residence of co-accused Jodhbir Singh on the strength of disclosure statements allegedly made by the accused, including the petitioners following their arrest. In so far as petitioner-Shamsher Singh is concerned, his implication is solely based on the disclosure statement of co-accused, wherein it is alleged that the contraband was procured through him. It has been emphasised by the learned counsels that no recovery, direct or constructive, was made from the possession of petitioner-Shamsher Singh either.

4. Learned counsels further argue that the recovery in question was not made from any premises owned or possessed by the

petitioners, and no material has been placed on record to demonstrate any direct nexus between the petitioners and the recovered contraband.

5. It is also submitted that the petitioners have clean records under the NDPS Act, save for petitioner-Prince Singh, who is booked in a prior case involving possession of a small quantity of contraband within the jail premises, along with 20 other inmates.

6. Learned counsels have further pointed out that although the challan in the present case was filed on 19.02.2024, charges were framed only on 03.04.2025 i.e. after more than a year. Till date, not a single prosecution witness, out of the total 37 cited in the charge sheet, has been examined. It is, therefore, urged that the petitioners cannot be indefinitely incarcerated when the trial has effectively stagnated.

7. *Per contra*, learned State counsel has vehemently opposed the prayer and submissions made by the counsel opposite but, on instructions, has not disputed the fact that no narcotics were recovered from the person or possession of the petitioners at the time of their arrest. It has also not been contested, on instructions, that the 280 grams of heroin was recovered from the premises of co-accused Jodhbir Singh and not from any property connected to the petitioners. With respect to the antecedents of the petitioners, the learned State counsel, on instructions, has acknowledged that petitioner-Shamsher Singh has no previous criminal history. Petitioner-Malkeet Singh is stated to be involved in a few other cases under the IPC, while petitioner-Prince is involved in some IPC cases and one case under the Prisons Act relating to a recovery of contraband (small quantity) within jail premises.

8. The delay in the trial has been attributed by the learned State counsel, on instructions, to the non-arrest of certain co-accused. However, no material has been placed on record to suggest that the delay is attributable to any act or omission on part of the present petitioners.

9. I have heard learned counsel for the parties and perused the relevant material on record.

10. Even as per the case of the prosecution, no recovery of any contraband was effected from the conscious possession of the petitioners. The recovery of heroin i.e. 280 grams (slightly above the minimum classified as commercial under the NDPS Act), admittedly was effected from the premises of another co-accused and is based on disclosure statements, the evidentiary value of which would be tested during trial. At this stage, there is nothing to connect the petitioners with the premises in question nor has anything been brought to the notice of this Court that the recovered contraband was in their conscious possession.

11. Petitioners-Malkeet Singh and Prince Singh have been in custody since 23.08.2023, while petitioner-Shamsher Singh has been in custody since 20.12.2024 and the trial has made negligible progress, despite the presentation of the challan over a year ago. The delay is compounded by the fact that no prosecution witness has been examined yet, and there is no indication of an early conclusion of the proceedings. Under such circumstances, further incarceration of the petitioners would serve no useful purpose.

12. In view of the above, this Court deems it fit to extend the concession of bail to the petitioners. Accordingly, the instant petitions

are allowed and the petitioners be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned, subject to the imposition of such stringent conditions as deemed necessary to ensure their presence during trial and to prevent any misuse of liberty.

13. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

14. Needless to say, in case the petitioners misuse the concession of bail, the State would be at liberty to seek cancellation of the same.

May 7th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No