



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

237

**CRM-M No.62691 of 2025
Date of decision : 13.11.2025**

Kanhaiya Lal @ Ghaniya Lal**.....Petitioner****Versus****State of Punjab****.....Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. S.S. Sarwara, Advocate, for the petitioner

Mr. Baljinder Singh Sra, Addl. AG, Punjab

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.47 dated 14.5.2025 under Sections 18 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar Rajpura, District Patiala.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Copy of original Ruka SHO, Sadar Rajpura Today me SI/SHO along with SI sukhwinder Singh No. 1329/Patiala, ASI Gurmeet Singh No. 3658/Patiala S/CT Daljit Singh No. 2044, Ct Gurpreet Singh No. 568/Patiala S/CT Gurwinder Singh No. 1962/Patiala on government Scorpio bearing registration No. TO225MH8877C being driven by ASI Gurcharan Singh No. 1427ptl were present on main GT road Rajpura to Sirhind near Jashan Hotel within the area of village Uppalheri in connection with patrolling and special barricading then at around 16.15



PM, the traffic coming from Ambala side was being checked then during checking a person who was having Pithu bag hanged on his back, came out from some vehicle and tried to turn back in hurry then on having doubt SI Gurmeet Singh No. 369/F.G.S. has apprehended him with the help of associate officials by calling him, the said youngman was in worry, then SI Gurmeet Singh No. 369/F.G.S. has asked his and address then he stated his name as Ghanayia Lal son of Yuvraj Resident of Rewarpur, Police Station Deyi Khera District Bundi, Rajasthan. Then I SI Gurmeet Singh No. 369/F.G.S. has informed him about his identity and stated that I, SI Gurmeet Singh No. am posted as Station House Officer, 369/F.G.S. name Police Station Sadar Rajpura and I am in uniform and my name plate is affixed on my uniform an my police party is also in uniform. I have doubt that there is any intoxicant material in your heavy Pithu bag colour black, therefore the search of your Pithu bag is to be conducted but you have legal right that you can get done the search of your black colour Pithu bag through any Gazetted officer or magistrate, who can be called to the spot or you can be taken to them, then after thinking for some time, said Ghanayia Lal replied that I have trust upon you, you Therefore can conduct the search of my Pithu bag. SI Gurmeet Singh No. 369/F.G.S. has issued notices under section 42 of NDPS Act and 50 of NDPS Act as per procedure and the consent memo of Ghanayia Lal has been recorded as per procedure, witnesses have appended their signature on the consent statement and after hearing and understanding the contents of his consent statement, said Ghanayia Lal has also appended his signature. The persons going on the road were stopped and informed them about the fact of case and tried to join them in the police party but nobody got ready for the same by stating about their personal difficulty. Thereafter I SI/SHO Gurmeet Singh No. 369/F.G.S. in the presence of police party, has removed the black colour Pithu bag from the shoulders of said Ghanayia Lal. On opening and after checking the same a black colour plastic polythene recovered from a white colour cloth and upon opening and checking it, opium recovered from it. On weighing the said recovered opium, same is found to be 2 Kg 500 Grams along with polythene. The said recovered 2 Kg 500 Grams of opium has been put in a plastic box and turned the same into parcel and sealed the parcel by me SI Gurmeet Singh No. 369/F.G.S. with my seal bearing impression GS. Sample seal has been prepared separately. Stamp is handed over to ASI Sukhwinder Singh No.



1329/PTA after use. Videography has been done with the help of E-Sakshya app on the spot. The said parcel containing 2 Kg 500 Grams of Opium duly sealed with seal bearing impression GS and sample of seal have been taken in the possession of police through memo and signatures of witnesses have been taken on the memos. Above said Ghanayia Lal has committed offence under section 18/61/85 of NDPS act by keeping 2 Kg. 500 grams of opium in his possession. Therefore rukka has been sent to register case against the said Khaniya Lal for registration of case and sent to police station by hand HC Gurwinder Singh 1962/PTA has been sent to police station. FIR be registered and case number be intimated. Special reports be issued. I SI/SHO is present at the spot for further investigation. Sd/- Gurmeet Singh SHO Sadar Rajpura.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 14.5.2025. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further urged that the mandatory provisions of NDPS Act have not scrupulously been complied with and thus, the prosecution version suffers from inherent defects. Learned counsel has further submitted that the petitioner is a man with clean antecedents. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 12.11.2025 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 14.5.2025 wherein after



investigation was carried out and challan stands presented on 16.7.2025. Total 15 prosecution witnesses have been cited and it is not in dispute that only one has been examined in part till date. The recovery alleged to have been effected from the petitioner is 2.5 Kgs. of opium, which does not fall in the realm of commercial quantity. Hence, the bar of Section 37 of the NDPS would not apply. The rival contentions raised by learned counsel give rise to debatable issues which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

As per custody certificate dated 12.11.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 5 months and 24 days & is not shown to be involved in any other case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or



- documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
 - (iv) The petitioner shall not commit any offence while on bail.
 - (v) The petitioner shall deposit his passport, if any, with the trial Court.
 - (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
 - (vii) The petitioner shall not in any manner try to delay the trial.
 - (viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after his being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

13.11.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No