



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

230

**CRM-M-64766-2025 (O&M)
Date of decision : 21.11.2025**

Rijwan @Ganja

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Gaurav Verma, Advocate for the petitioner.

Ms. Deepali Verma, Asst. A.G. Haryana.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 20, and 29 of the 'Narcotic Drugs and Psychotropic Substances Act, 1985', hereinafter being referred to as 'NDPS Act' only, the FIR No.290 dated 24.08.2025 has been lodged in Police Station Dabua, District Faridabad. The petitioner is being prosecuted for the commission of abovementioned offence and he has been arrested. The petitioner is in custody and, therefore, craving for bail. This is first petition for bail filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being at the instance of SI Jasbir Singh, who reported that on 24.08.2025, when he was heading a police team deputed for patrolling duty, on the basis of a tip-off given by an informant, he



apprehended a person. According to above-named police official, the abovesaid person disclosed his name as 'Jitendra Sehgal @Chodi', and when the search of his person was conducted as per laid down procedure, it was found that the abovesaid person was carrying 5 kg 150 gms of ganja (cannabis).

3. It is the case of the prosecution that once the recovery of contraband had taken place, requisite formalities with regard to seizure & sealing of contraband, lodging of FIR, and arrest of accused were performed, and further investigation taken up.

4. According to prosecution, during the course of investigation, when the above-named accused, who disclosed his name as 'Jitendra Sehgal @Chodi', was interrogated, he suffered a disclosure statement, wherein he nominated the petitioner as the supplier of contraband.

5. Notice of motion.

6. Since advance notice has already been served upon the State, Ms. Deepali Verma, Asst. A.G. Haryana accepts notice on behalf of respondent-State, and waives service. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record. No formal reply has been filed by the State. However, the petition has been opposed orally.

7. The record has been perused carefully.



8. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration, for arriving at any decision with regard to present petition: -

- i) that the petitioner is already in custody for a period of more than 02 months;
- ii) that the petitioner has been simply implicated, on the basis of disclosure statement suffered by the co-accused, and the abovementioned disclosure statement of co-accused was recorded, when the maker of it was already in police custody. Thus, there is a question mark with regard to credibility and admissibility of abovementioned disclosure statement in evidence;
- iii) that the quantity of contraband, recovered in this case, comes within the ambit of intermediate quantity;
- iv) that nothing is left to be recovered from the possession of petitioner;
- v) that the trial is not likely to be concluded in near future;
- vi) that as per custody certificate, the petitioner has no criminal antecedents;
- vii) that detention of petitioner in judicial lock-up is not likely to serve any purpose;
- viii) 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
- ix) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.



9. With regard to the legal aspect involved in the instant case, the principles of law laid down by the Hon'ble Supreme Court in the case of ***“Dataram versus State of Uttar Pradesh and another”, 2018(2) R.C.R. (Criminal) 131***, are relevant, wherein it has been observed that *“a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”*.



10. The principles laid down by the Hon'ble the Supreme Court of India in the case of '**Satender Kumar Antil Vs. Central Bureau of Investigation and Another**', **2022 LiveLaw (SC) 577**, are also relevant in this case. In the abovementioned case, it has been observed that "*the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice*".

11. Recently, in the case of '**Tapas Kumar Palit Vs. State of Chhattisgarh**', **2022 INSC 222**, the Hon'ble Supreme Court of India has observed that "*if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed*". It has also been observed by the Hon'ble Supreme Court of India in the abovementioned case that "*delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently*".



12. Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon'ble Apex court in ***“Balwinder Singh versus State of Punjab and Another”***, ***SLP (Crl.) No.8523/2024***.

13. To deal with given fact-situation, the principles of law have been 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 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.

14. 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.

15. 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.

16. 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.

17. If the cumulative effect of all the abovementioned 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.

18. 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 him 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.

19. 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

NOVEMBER 21, 2025
Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No