

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

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CRM-M No.65652 of 2025 (O&M)

Date of Decision: 28.11.2025

Gurbir Singh**.....Petitioner****Versus****State of Punjab****..... Respondent****CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH**

Present: Mr. Akhil Saini, Advocate for
Mr. Rammish Puri, Advocate for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 21, 27(a) of Narcotic Drugs & Psychotropic Substances Act 1985, [Section 29 of NDPS Act added later on], the FIR No.115 dated 04.08.2025, has been lodged in Police Station Chattiwind, District Amritsar. The petitioner has been arrested in the above mentioned case as an accused. Since the petitioner is in custody, he has filed the present petition for the benefit of bail. This is first petition for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being at the instance of Sub Inspector Tarlok Singh'. It was reported by the above named police officer that on 04.08.2025 when he was heading a police party deputed for patrolling duty near canal bridge village Mahima, on the basis of suspicion two persons were intercepted. According to above named police officer when search of their persons were conducted, who disclosed their names as 'Jobanpreet Singh @ Joban' and 'Harman Singh @



Hammu' from their possession 20 grams 'Heroin' was recovered (10 grams each).

3. It is the case of the prosecution that pursuant to above mentioned recovery of contraband the requisite formalities with regard to seizure and sealing of contraband, lodging of FIR and arrest of accused were undertaken and further investigation taken up. As per prosecution, during the course of investigation the above named accused 'Jobanpreet Singh' suffered a disclosure statement wherein he disclosed that he purchased the abovementioned contraband from the present petitioner.

4. Notice of motion.

5. Since advance notice has already been served, Mr. I.P.S. Sabharwal, DAG, Punjab, appears on behalf of respondent-State, and waives service.

6. 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 learned State counsel has orally opted to oppose the present petition.

7. Heard.

8. 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'**. 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.



9. 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.

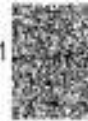
10. Similar principle has been laid down by the Hon’ble Supreme Court of India in the case of **‘Preet Kamal Vs. State of Punjab’, 2018(4) RCR (Criminal) 938**, wherein it has been held that the disclosure statement of an accused can be used only against the person making the same, and not against the co-accused.

11. 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.

12. The record has been perused carefully.

13. A perusal of the record shows that there are several factors which are required to be taken into consideration at this stage. They are:-

- i) that quantity of contraband recovered from the possession of co-accused, i.e. 20 grams of ‘Heroin’ is a non-commercial quantity, which is just above the maximum threshold meant for small quantity, and only a fraction of lower limit fixed for commercial quantity;
- ii) that the petitioner was not found in possession of any drug and he has been simply nominated on the basis of disclosure



statement of co-accused;

- iii) that the only evidence available against the petitioner is the disclosure statement suffered by the co-accused, who was already in police custody at the time of recording of statement. Thus there is a big question mark with regard to credibility and admissibility of such a disclosure/confessional statement in evidence;
- iv) that the petitioner is already in custody for a period of more than 3 months;
- v) that nothing is left to be recovered from possession of petitioner;
- vi) that the trial of the case is not likely to be concluded in near future;
- vii) that detention of the 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 is likely to tamper with the evidence, or influence the witnesses;
- ix) that there is nothing on record to show that if petitioner is released on bail, he will not participate/co-operate in the trial.

14. In the present 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 also 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”.

15. 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”.

16. 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*”.

17. 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**.

18. 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 that the present petition deserves to be allowed.

19. 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 from closing 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.

20. 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

28.11.2025
Manoj Bhutani

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