



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M No.67314 of 2025 (O&M)

Reserved on: 05.12.2025

Date of Decision: 15.12.2025

Gurbaj Singh

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

**Present:** Mr.Ashish Aggarwal, 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(c), and 23 [Sections 27-A and 29 of Narcotic Drugs & Psychotropic Substances Act, 1985 added later on] hereinafter being referred to as 'NDPS Act', the FIR No.187 dated 11.07.2025 has been lodged in Police Station Anti Narcotic Force (ANTF), District ANTF Wing, SAS Nagar. The petitioner is being prosecuted for the commission of above mentioned offence and he has been arrested. 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 in view of a report submitted by Sub Inspector 'Harpal Singh', who reported that on that day, i.e. 11.07.2025, when he was heading a team deputed for usual law and order duty at Bus Stand Village



Rania, an informant gave him a tip-off that 'Lovejeet Singh @ Love' son of 'Gursharan' was having relations with drug paddler in Pakistan and that he used to receive supply of 'Heroin' from Pakistan through drone. It was further informed that 'Lovejeet' had received a big consignment of 'Heroin' from Pakistan and was trying to sell the same. It is the case of the prosecution that the above named police officer also reported that in view of above mentioned information he undertook usual formalities and then raided the house of 'Lovejeet Singh', who was found standing outside his home. As per prosecution case, on search of his house two parcels containing 566 grams and 585 grams of 'Heroin' were recovered.

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 when the above named accused 'Lovejeet Singh' was interrogated, he suffered a disclosure statement wherein he nominated two persons namely 'Vikramjeet' and 'Kuldeep Singh'. The prosecution has further alleged that in the second round of interrogation the accused 'Lovejeet' had nominated the present petitioner by stating that about 3 months ago he had supplied a consignment of drug to the petitioner also.

4. Heard.

5. It has been contended on behalf of petitioner that petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that in the present case he has been implicated on the basis of disclosure statement



suffered by the co-accused. According to learned counsel for the petitioner, the abovesaid disclosure statement, being relied upon by the prosecution, is neither a piece of evidence which can be said to be admissible in evidence, nor the same is reliable in view of the fact that in the first round of interrogation the name of the petitioner was not disclosed by the petitioner. While claiming that the petitioner has clean antecedents barring one case under Sections 384, 452, 323, 120-B and 34 IPC, and that detention of petitioner in judicial lock-up shall not serve any purpose, the benefit of bail has been claimed for the petitioner.

6. The above mentioned arguments have been controverted by learned State counsel. According to learned State counsel the recovery of contraband from the possession of petitioner being commercial quantity, without satisfying the rigors enshrined under Section-37 of NDPS Act, the petitioner cannot be released on bail. According to learned State counsel, in the given fact situation, the petitioner is not entitled for the benefit of bail.

7. 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 'Vijay Singh Vs. The State of Haryana, 2023 SCC Online SC 1235'. 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.

8. Similarly, in the case of 'Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence' 2018(8) SCC 271, 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.

9. 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.

10. 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.

11. It is also relevant to mention here that from the possession of co-accused of the petitioner, commercial quantity of contraband has been recovered and that is why, the learned State counsel has contended that rigors of Section 37 of the NDPS Act are applicable in the present case. However, in this regard, the law propounded by the Hon'ble Supreme Court of India in the case of 'Mohd. Muslim @ Hussain Vs. State (NCT of Delhi), 2023(18) SCC 166', is relevant, wherein the Hon'ble Supreme Court of India has ruled that principles of fairness embodied under Article 21 of the Constitution override the statutory restrictions on grant of bail under Section 37 of the NDPS Act.

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 the petitioner is already in custody for a period of 04 months and 15 days;
- ii) that the rigors of Section-37 of NDPS Act are attracted qua the accused 'Lovepreet' from whose custody recovery of contraband had taken place. However, the same provisions is not attracted for the case of petitioner as he was not found in possession of any kind of contraband and 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 in evidence, of abovesaid disclosure/confessional statement;
- iv) that nothing is left to be recovered from possession of petitioner;
- v) that the trial of the case is not likely to be concluded in near future;
- vi) that detention of the petitioner in judicial lock-up is not likely to serve any purpose;
- vii) 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;
- viii) 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) 3 SCC 22, 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 v. Central Bureau of Investigation’ (2022) 10 SCC 51 are also relevant in this case. In the above mentioned 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’, 2025 SCC Online SC 322, 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 above mentioned 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 reason-



able, 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' 2024 SCC Online SC 4354.

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 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 learned 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 that regard.

(SURYA PARTAP SINGH)  
JUDGE

15.12.2025  
*Manoj Bhutani*

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |