



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

238

CRM-M No.68484 of 2025

Date of decision : 10.12.2025

Date of uploading : 10.12.2025

Sukhdev Singh alias Vishal Singh alias ShalluPetitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. A.S. Prajapati, Advocate, for the petitioner

Mr. Hemant Aggarwal, AAG, 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.151 dated 11.7.2025, under Sections 21, 25, 27(A) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Jandiala, District Amritsar Rural.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'SHO Police Station Jandiala, District Amritsar Rural "Jai Hind". That today I ASI along with SCT Prabhjot Singh No. 1867, SCT Major Singh No. 204, SCT Jugraj Singh No. 1961, SCT Sandeep Singh No. 47. SCT Manavdeep Singh No. 1961 were going towards Village Mehbampur from the Main Highway side in a private vehicles, for patrolling and looking for bad persons. Then, we saw three persons riding on a motorcycle i.e.. Hero Splendour Plus, without number plate, coming towards us from the side of Sua Pool Rakh Devidaspura, who immediately after seeing the police party in panic, about to turn backwards. Therefore, the person who was sitting in the middle of the motorcycle, was about to through a transparent



plastic bag, after taking it out from the right pocket of the black jean pent he was wearing. Hence, on the basis of the suspicion I ASI along with the help of fellow police officials got control over him and asked him his name and address. On that the person who was driving the motorcycle told that his name is Gurjant Singh son of Rakesh Singh resident of Village Amarkot, Second person told that his name is Arshdeep Singh son of Laddu resident of Village Amarkot and thirds person told that his name is Shamsher Singh son of Khajan Singh, resident of Village Amarkot. That I have introduced myself to the aforesaid accused namely Gurjant Singh, Arshdeep Singh and Shamsher Singh, that I ASI Hardial Singh 1351, is posted at Police Station Jandiala Guru, District Amritsar Rural. That I have worn uniform according to my rank. That I am having a suspicion of having an intoxicated substance in the plastic bag caught hold in your hand. That you have the right to get yourself and your plastic bag searched in the presence of a magistrate or Gazetted officer? The same can be arranged on the spot or you can be taken to their place. Therefore, they have replied that we trust you. you can search us and my polythene bag. That the notice under section 50 of the NDPS Act was prepared, read over to the aforesaid accused Gurjant Singh, Arshdeep Singh and Shamsher Singh and then the notice was verified. Consent memos were prepared. That the aforesaid accused Gurjant Singh, Arshdeep Singh, and Shamsher Singh had put their signatures on the memos and the witnesses put their own. Then before checking of the transparent plastic bag being caught hold by the aforesaid accused Arshdeep Singh, in his right hand. I have tried to join the witnesses from public to the party. however, no one joined the party. Therefore, I ASI in the presence of fellow police officials have opened and checked the transparent polythene bag, caught hold by the aforesaid accused Arshdeep Singh in his right hand, out of the said bag heroine was recovered, On the spot, videography was conducted through eSakshya. Recovered heroine was measured with the help of electronic weighing machine which becomes 20 grams of heroin, including the polythene bag. which was then put in a plastic box, a separate parcel was prepared and was sealed under my seal i.e.. HS along with other seal, a separate sample seal was prepared and the obligations of Form No.4 were complied with. Plastic Box Parcel along with sample seal along with from no.4 was taken in to police custody through a separate memo. That on searching the aforesaid accused Gurjant Singh, an amount of Rs. 1,000/- Indian currency was recovered from left pocket of the Jean pent he was wearing. On this the aforesaid accused Gurjant Singh was asked about that money he replied that he along with Arshdeep Singh and Shamsher Singh were coming after selling the heroine and the said money is consideration of the Heroine. Therefore, a separate parcel was prepared for the aforesaid recovered amount of Rs. 1,000/- i.e., drug money, polythene bag was put in the parcel, sealed with my seal i.e.. HS along with other Seal. and was taken in to police custody as evidence through separate memo. After Seal, It was handed over to SOT Prabhjot Singh No. 1867/ASR-R. Thereafter | ASI have got conducted the search of Motorcycle make Hero splendour plus i.e.. without number plate however, during the search any intoxicated substance or any document related to the ownership of the motorcycle was not recovered. Then the said motorcycle without number plate was taken into police custody as evidence through separate memo. Therefore. the accused Gurjant Singh son of Rakesh Singh resident of Village Amarkot, Arshdeep Singh son of Laddu, resident of Village Amarkot and Shamsher Singh son of Khajan Singh resident of Village Amarkot has committed an offence u/s 21, 25. 270, 29, 61, 85 of NDPS Act by possessing 20 grams of heroin. That after



preparing a ruqa, S/CT Major Singh. 204 is being sent to the Police Station Jandiala for the registration of the case. That after registration of the case, number may kindly be intimated. Further a special report be prepared and be presented before the Illaga Magistrate and Higher Officials. Also intimation is sent to the control room. That I along with fellow officials are present on the spot for investigation. Sd/- Hardial Singh ASI, Police Station Jandiala Guru, District Amritsar Rural. '

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 19.9.2025. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that the recovery of contraband i.e. 20 grams of heroin is not from the present petitioner but from co-accused. Learned counsel has further iterated that police invoked Section 27A of the NDPS Act against the petitioner on the terms that ₹1000/-drug money has been recovered from the co-accused. 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 has further iterated that the petitioner is accused of offence pertaining to the NDPS Act, and thus, his bail petition is barred in view of the Section 37 of the Act. Learned State counsel seeks to place on record custody certificate dated 9.12.2025 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 19.9.2025 and is in continuous custody since then. The culmination of the investigation as also the trial emanating there from, in case occasion so arises, will take its own time. It



is not in dispute that the contraband i.e. 20 grams of heroin was recovered from the co-accused. 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. Recovery of drug money of ₹1000/- was not from the petitioner but from the co-accused. In this view of the matter, in view of the considered opinion of this Court the rigor against the petitioner by virtue of Section 37 stands diluted. A profitable reference in this regard has been made to a judgment dated 21.7.2025 passed by this Court in **CRM-M-33729-2025 titled *Jaswinder Singh alias Kala v. State of Punjab***, relevant portion whereof reads as under:

14. *As a sequitur to above-said rumination, the following postulates emerge:*

- (I) *(i) A bail plea on merits; in respect of an FIR under NDPS Act of 1985 involving offence(s) under Section 19 or Section 24 or Section 27-A thereof and for offence(s) involving commercial quantity; is essentially required to meet with the rigour(s) of Section 37 of NDPS Act.*
(ii) The rigour(s) of Section 37 of NDPS Act do not apply to a bail plea(s) on medical ground(s), interim bail on account of any exigency including the reason of demise of a close family relative etc.
(iii) The rigour(s) of Section 37 of NDPS Act pale into oblivion when bail is sought for on account of long incarceration in view of Article 21 of the Constitution of India i.e. where the bail-applicant has suffered long under-trial custody, the trial is procrastinating and folly thereof is not attributable to such bail-applicant.
- II. *The twin conditions contained in Section 37(1)(b) of NDPS Act are in addition to the conditions/parameters contained in Cr.P.C./BNSS or any other applicable extant law.*
- III. *The twin conditions contained in Section 37(1)(b) of NDPS Act are cumulative in nature and not alternative i.e. both the conditions are required to be satisfied for a bail-plea to be*



successful.

IV. *For consideration by bail Court of the condition stipulated in Section 37(1)(b)(i) of NDPS Act i.e. “there are reasonable grounds for believing that he is not guilty of such offence”:*

(i)The bail Court ought to sift through all relevant material, including case-dairy, exclusively for the limited purpose of adjudicating such bail plea.

(ii)Such consideration, concerning the assessment of guilt or innocence, should not mirror the same degree of scrutiny required for an acquittal of the accused at the final adjudication & culmination of trial.

(iii)Plea(s) of defence by applicant-accused, if any, including material/documents in support thereof, may be looked into by the bail-Court while adjudicating such bail plea.

V. *For consideration of the condition stipulated in Section 37(1)(b)(ii) i.e. ‘he is not likely to commit any offence while on bail’:*

(i)The word ‘likely’ ought to be interpreted as requiring a demonstrable and substantial probability of re-offending by the bail-applicant, rather than a mere theoretical one, as no Court can predict future conduct of the bail-applicant.

(ii)The entire factual matrix of a given case including the antecedents of the bail-applicant, role ascribed to him, and the nature of offence are required to be delved into. However, the involvement of bail-applicant in another NDPS/other offence cannot ipso facto result in the conclusion of his propensity for committing offence in the future.

(iii)The bail-Court may, at the time of granting bail, impose upon the applicant-accused a condition that he would submit, at such regular time period/interval as may stipulated by the Court granting bail, an affidavit before concerned Special Judge of NDPS Court/Illaq (Jurisdictional) Judicial Magistrate/ concerned Police Station, to the effect that he has not been involved in commission of any offence after being released on bail. In the facts of a given case, imposition of such condition may be considered to be sufficient for satisfaction of condition enumerated in Section 37(1)(b)(ii).

VI. *There is no gainsaying that the nature, mode and extent of exercise of power by a Court; while satisfying itself regarding the conditions stipulated in Section 37 of NDPS Act; shall depend upon the judicial discretion exercised by such Court in the facts and circumstances of a given case. No exhaustive guidelines can possibly be laid down as to what would constitute parameters for satisfaction of requirement under Section 37 (ibid) as every case has its own unique facts/circumstances. Making such an attempt is nothing but a utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such matter.*

6.1 As per custody certificate dated 9.12.2025 filed by learned State



counsel, the petitioner has already suffered incarceration for a period of 2 months and 17 days. As per the said custody certificate, the petitioner is stated to be involved in 2 more cases/FIRs under the Arms Act and NDPS Act. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586***; a Division Bench judgment of the Hon'ble Calcutta High Court in case of ***Sridhar Das v. State, 1998 (2) RCR (Criminal) 477*** & judgments of this Court in ***CRM-M No.38822-2022*** titled as ***Akhilesh Singh v. State of Haryana***, decided on 29.11.2021, and ***Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191***.

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

10.12.2025
Ashwanii