



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

221

CRM-M-3824-2026

Date of decision: 19.03.2026

Rajwinder Singh @ Rajbir @ Raju

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Lovish Rattan, Advocate for the petitioner.

Mr. Darshan Singh Malwai, Addl. A.G., Punjab.

AARADHNA SAWHNEY, J.(ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No. 311 dated 23.11.2025 registered against him, for commission of offences punishable under Sections 21/27(a) of Narcotic Drugs and Psychotropic Substances, Act 1985 (Section 29/61/85 of NDPS Act added later on) at Police Station Jandiala, District Amritsar, has prayed for grant of bail.
2. Relevant facts as emerging from documents on record be noticed hereinbelow:-

On 23.11.2025 based on a chance recovery, Police team headed by ASI Balwinder Lal seized 12 grams of Heroin (Intermediate Quantity) along with drug money of Rs.400/- from possession of a person who introduced himself as Lovepreet Singh @ Maan, son of Kala Singh, resident of Jyotisar Colony, Amritsar. After the statutory formalities were complied with, FIR was lodged. During the course of interrogation, the aforesaid accused, disclosed the name of present petitioner and co-accused Jagjit Singh, who were stated to be suppliers. He further disclosed that the alleged contraband was purchased by him from the petitioner. Thereafter, the present petitioner was arrested on 25.11.2025.



3. Petitioner/accused moved an application for grant of bail before the learned Judge, Special Court, Amritsar. The same was dismissed vide order dated 24.12.2025. Aggrieved of the same, present petition has been filed.

4. Learned counsel for the petitioner contends that petitioner, a young boy aged about 28 years, whose past antecedents are quite clean, has been falsely implicated in the present case only on the basis of disclosure statement of co-accused Lovepreet Singh, who was allegedly caught red handed while keeping in his illegal possession 12 grams of 'Heroin' (Intermediate Quantity). Further, in the factual scenario of the case in hand, the provisions of Section 27-A of NDPS Act have been added just to invoke the rigors of Section 37 of NDPS Act.

It has further been prayed that keeping in view the alleged recovery of contraband (Intermediate Quantity), the fact that investigation qua petitioner is complete, his further incarceration would not serve any useful purpose. It has thus been prayed to take lenient view in petitioner's favour, who has been in custody since 24.11.2025, by extending him the concession of bail.

5. Status report dated 18.03.2026 by way of affidavit of Mr. Ravinder Singh, PPS, Deputy Superintendent of Police, Sub-Division Jandiala, Amritsar, has been filed. Opposing the petition, learned State counsel submits that petitioner and one Jagjit Singh have been specifically named by the accused arrested at the site, as the persons who had supplied the contraband. In the wake of drug menace being on the rise, strict view deserves to be taken against the petitioner, for, if extended the concession of bail, chances of him fleeing from the process of justice are quite high. Dismissal of the petition has been prayed for.



6. I have heard the learned counsel for the parties and have gone through the documents on record.

7. In *Jaswinder Singh @ Kalla vs. State of Punjab (CRM-M-33729-2025)*, it was held 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 reoffending 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.”

The evidentiary value of the testimonies and other evidence will be seen by the learned trial Court during the course of the trial in accordance with established principles of law. However, while adjudicating a plea for regular bail, this Court cannot remain oblivious to the circumstances under which the petitioner has been arraigned or implicated, including the nature of the allegations, the evidence linking the petitioner to the offence as well as the specific role attributed to the petitioner in the commission of the alleged offence.

8. Admittedly, the petitioner was not arrested at the site. Name of the petitioner cropped up in the disclosure statement of the co-accused. Further nothing has been brought on record from where an inference can be drawn that if extended the concession of bail, petitioner would abscond or flee from the process of justice or interfere/tamper with the prosecution evidence. In the factual scenario of the case in hand, the Court is of the opinion that fetters of Section 37 of NDPS Act have been met with so as to enlarge the petitioner on bail.

9. When appreciated in the light of the facts that have been brought on record, the Court is of the opinion that no useful purpose would be served by further detention of the petitioner, as the same, without the prospect of trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India, including right to speedy



trial and would, thus, also be against the principle of “*Bail is a general rule and incarceration is an exception*” as held by Hon’ble Supreme Court in ***Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131.***

In the light of aforesaid discussion, this Court is of the opinion that further incarceration of petitioner would not serve any useful purpose. Resultantly, petitioner is granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

- (i) *The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) *The petitioner will not tamper with the evidence during the trial.*
- (iii) *The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iv) *The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) *The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (vi) *The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- (vii) *The petitioner shall not in any manner misuse his liberty.*
- (viii) *The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason,*



the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.

(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

10. Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)
JUDGE

19.03.2026

Hemant

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