



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

222

CRM-M-7533-2025 (O&M)

Date of decision : 22.01.2026

Bahor Singh @Bohar Singh @Bohra @Sonu

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Ajay Kumar, Advocate for
Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. Rohit Bansal, Sr. DAG Punjab.

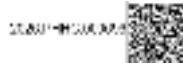
SURYA PARTAP SINGH, J. (oral)

Power of Attorney on behalf of the petitioner has been filed.

The same be taken on record.

2. For the commission of offence punishable under Section 21(c), 23, 25 and 29 of 'Narcotic Drugs and Psychotropic Substances Act', hereinafter being referred to as 'NDPS Act' and Section 25 of Arms Act, the FIR No.306 dated 01.12.2024 has been lodged in Police Station Gharinda, District Amritsar Rural. 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.

3. In nut-shell, the facts emerging from record are that the FIR of this case came into being on 01.12.2024 at the instance of 'Inspector



Amandeep Singh'. It was reported by the above-named police officer that when he was heading a police party, and was present at T-point Atari, a reliable source gave him a tip-off and on the basis of his information three persons were apprehended, who on enquiry disclosed their names as 'Lovepreet Singh @Love', 'Sabba Singh' and 'Sukhdev Singh @Nikka'. As per prosecution on search from the possession of Lovepreet Singh @Love, 2 kg of heroin and from possession of accused Sabba and Sukhdev Singh 1 kg heroin, each, was recovered (total weighing 4 kg of heroin).

4. It is the case of the prosecution that pursuant to abovementioned 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 all the abovementioned three accused suffered a disclosure statement wherein they disclosed that they were having a contact number of Pakistan based smuggler, namely Rana, who used to supply heroin to them. According to prosecution, they further disclosed that the above-named Rana introduced them to the petitioner as the petitioner used to procure heroin through him and that on 01.12.2024, all the above-named three accused along with petitioner had gone to pick-up the consignment of heroin, but petitioner managed to flee from the spot.

5. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record.

6. Heard.

7. It has been contended on behalf of petitioner that petitioner is innocent having no nexus, whatsoever, with the commission of crime, and



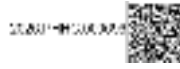
that in the present case, he has been prosecuted merely on the basis of a disclosure statement suffered by his co-accused. According to learned counsel for the petitioner, the disclosure statement being relied upon by the prosecution is neither a piece of evidence which can be said to be admissible in evidence nor the same is reliable, as the same was recorded when the co-accused were in police custody.

8. The learned counsel for the petitioner has contended that challan in this case has been filed before the Court and that the trial is not likely to be concluded in near future, as in this case charges are yet to be framed. In addition to above, the learned counsel for the petitioner has also contended that the petitioner has already suffered a prolonged incarceration, as he is in custody for a period of more than 01 year and 01 month.

9. The abovementioned arguments have been controverted by the learned State counsel. According to learned State Counsel, the contraband recovered in this case comes within the ambit of commercial quantity and that, without satisfying the twin conditions, prescribed under Section-37 of NDPS Act, the petitioner cannot be released on bail. According to learned State Counsel, being supplier of contraband, the petitioner is not entitled for the benefit of bail.

10. The record has been perused carefully.

11. To deal with given fact-situation, the principles of law laid down by the Hon'ble Supreme Court of India in the case of '*Vijay Singh Vs. The State of Haryana*' 2023 SCC OnlineSC 1235 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.

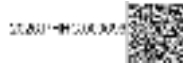
12. Similarly, in the case of '*Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence*' 2018(8) SCC 271, it has been held by the Hon'ble Supreme Court of India that the disclosure statement of co-accused is inadmissible against another accused, as the disclosure statement is not a substantive piece of evidence against other accused.

13. 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.

14. 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.

15. If the facts and circumstances of the present case are analyzed in the light of above-mentioned principles of law, it transpires that:-

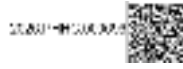
- (i) that the petitioner is already in custody for a period of more than 01 year and 01 month;
- (ii) that the rigors of Section-37 of NDPS Act are attracted qua co-accused only from whose custody recovery of contraband had taken place. However, the same provisions may not be attracted for the case of petitioner as he was not found in possession of any kind of contraband and was simply



nominated in the disclosure statement suffered by his co-accused;

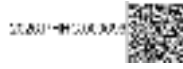
- (iii) that the only evidence available against the petitioner is the disclosure statement of his co-accused and there is a big question mark with regard to admissibility of above-mentioned statement in evidence, as the same was recorded when the maker of it was already in police custody. Since pursuant to above-mentioned disclosure statement no recovery or discovery of fact has taken place, the same is *prima facie* hit by Section-23 of Bharatiya Sakshya Adhiniyam;
- (iv) that nothing is left to be recovered from possession of petitioner;
- (v) that trial is not likely to be concluded in near future;
- (vi) that name of petitioner does not figure in the FIR;
- (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 co-operate/participate in the trial.

16. 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 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”.

17. 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) 10 SCC 51, 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”.

18. 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 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”.

19. 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”, 2024 SCC Online SC 4354.

20. 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.

21. 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.

(SURYA PARTAP SINGH)
JUDGE

22.01.2026

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No