



228

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

CRM-M No.9809 of 2026

Date of Decision: 30.03.2026

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Shamsher Singh @ Shera

.....Petitioner.

Versus

State of Punjab

.....Respondent.

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Gaurav Gurcharan S. Rai, Sr. DAG, Punjab.

SUMEET GOEL, J.(Oral)

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 bearing FIR No.5 dated 03.02.2025, registered for the offences punishable under Sections 21/25/21-C/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Bhindi Saidan, District Amritsar.

2. The gravamen of the FIR in question is that the petitioner is an accused of being involved in an FIR pertaining to NDPS Act involving alleged recovery of 2.5 Kgs. of heroin, one pistol and live-cartridges.

3. Learned counsel for the petitioner is in custody since 05.02.2025. Learned counsel has further submitted that mandatory provisions of the NDPS Act have not scrupulously been complied with, and

thus, the prosecution case suffers from inherent defects. Learned counsel has iterated that the trial is delayed and the liability thereof cannot be fastened upon the petitioner. Learned counsel has further iterated that the petitioner has suffered incarceration for more than 01 year and 01 month. Thus, regular bail is prayed for.

4. *Per contra*, learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, thus, the petitioner does not deserve the concession of the regular bail. Learned State counsel has further submitted that petition in hand does not meet the rigors of Section 37 of the NDPS Act and is, thus, liable to be rejected on this score alone. Learned State counsel seeks to place on record custody certificate dated 28.03.2026, in the Court today, which is taken on record. As per the said custody, the petitioner has suffered incarceration of 01 year 01 month and 18 days.

5. I have heard counsel for the rival parties and perused the paper-book as also the record produced before me.

6. Before delving further into the merits of the case, it would be apposite to refer herein to the following case-law germane to the matter(s) in issue:

i) The Hon'ble Supreme Court in the case of ***Union of India versus Namdeo Ashruba Nakade, Special Leave to Appeal (Crl.) No.9792/2025***, has held as under:

“8. This Court is of the view that the issue of substance abuse has emerged as a global public health crisis in the twenty-first century, affecting every country worldwide, as drug trafficking and addiction have become pervasive. The United Nations Office on Drugs and Crime (UNODC) reported in its 2025 World Drug

Report that “As at 2023, some 316 million people worldwide had used drugs in the past year, representing an increase over the past decade that outpaces population growth, which indicates a higher prevalence of drug use.”

9. *In India, there has been a concerning increase in drug abuse among the youth. Substance abuse not only affects individuals, families, and communities but also undermines various aspects of health including physical, social, political, cultural foundations, and mental well-being. (See: “Bhattacharya S, Menon GS, Garg S, Grover A, Saleem SM, Kushwaha P. The lingering menace of drug abuse among the Indian youth – it’s time for action. Indian J Community Med 2025;50:S9-12, published on 17th April, 2025”)*

10. *According to many news reports, India faces a clear dilemma between tackling the narcotics crisis systematically or sacrificing its most valuable resource i.e. its young people. The extent of menace of drug abuse has also been highlighted by this Court in the case of Ankush Vipin Kapoor v. National Investigation Agency, (2025) 5 SCC 155 wherein this Court has observed as under:*

“9.1 The ills of drug abuse seem to be shadowing the length and breadth of our country with the Central and every State Government fighting against the menace of substance abuse. The debilitating impact of drug trade and drug abuse is an immediate and serious concern for India. As the globe grapples with the menace of escalating Substance Use Disorders (“SUD”) and an ever accessible drug market, the consequences leave a generational Page 75 of 84 imprint on public health and even national security. Article 47 of the Constitution makes it a duty of the State to regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health. The State has a responsibility to address the root causes of this predicament and develop effective intervention strategies to ensure that India’s younger population, which is particularly vulnerable to substance abuse, is protected and saved from such menace. This is particularly because substance abuse is linked to social problems and can contribute to child maltreatment, spousal violence, and even property crime in a family.”

11. *In the present case, this Court finds that though the Respondent-accused was in custody for one year four months and charges have not been framed, yet the allegations are serious inasmuch as not only is the recovery much in excess of the commercial quantity but the Respondent-accused allegedly got the cavities ingeniously fabricated below the trailer to conceal the contraband.*

12. *Prima facie this Court is of the opinion that the Respondent-accused is involved in drug trafficking in an organized manner. Consequently, no case for dispensing with mandatory requirement of Section 37 of the NDPS Act is made out in the present matter.*

13. Moreover, this Court is of the view that as the accused has been charged with offences punishable with ten to twenty years rigorous imprisonment, it cannot be said that the Respondent has been incarcerated for an unreasonably long time.”

ii) Further, the Hon’ble Supreme Court in the case of ***Union of India versus Vigin K. Varghese, Special Leave Petition (Crl.) No(s).7768 of 2025***, has held as under:

“15. At this stage, two features stand out. The High Court’s conclusion that there is no material to show that the applicant had any knowledge of the cocaine in the consignment has been arrived at without discussion of the statements of the respondent and circumstances relied upon by the prosecution, including the assertion that the respondent had placed the orders for import, controlled the logistics chain, coordinated with the overseas supplier, and was present when the consignment was opened. The High Court has not examined whether those circumstances, taken at face value for the limited purpose of bail, could prima facie indicate conscious control or involvement sufficient to attract the presumption of culpable mental state indicated under Section 35 of the NDPS Act.

16. Further, while granting bail, the High Court recorded that there were no antecedents against the applicant. The material before this Court includes the Union’s assertion that the respondent had already been apprehended in connection with an earlier seizure of approximately 198.1 kilograms of Methamphetamine and 9.035 kilograms of Cocaine allegedly imported through the same channel only days before the present seizure. That assertion is neither noticed nor answered in the impugned orders.

17. The High Court then, on the strength of those premises, recorded a finding that there exist reasonable grounds to believe that the applicant is not guilty of the alleged offence, treating prolonged incarceration and likely delay as the justification for bail. Such a finding is not a casual observation. It is the statutory threshold under Section 37(1)(b)(ii) which would disentitle the discretionary relief and grant of bail must necessarily rest on careful appraisal of the material available. A conclusion of this nature, if returned without addressing the prosecution’s assertions of operative control and antecedent involvement, risks trenching upon appreciation of evidence which would be in the domain of trial court at first instance.”

7. The petitioner was arrested on 05.02.2025 whereinafter investigation was carried out and Challan was presented on 30.07.2025. Out of total cited 28 prosecution witnesses, none has been examined till date. The trial is underway. Indubitably, the petitioner is involved in the

FIR in question pertaining to commercial quantity of heroin (weighing 2.5 Kgs.) as per NDPS Act, 1985. From the rival submissions as also the material brought forth before me, no cause is made out in favour of the petitioner to meet with the rigors of Section 37 of the NDPS Act. Moreover, as per the custody certificate, the petitioner is involved in another case bearing FIR No.202 dated 20.12.2024 registered for the offences under Sections 21/25/27-A/29 of the NDPS Act and Section 238 of the BNS, at Police Station ANTF, SAS Nagar. Hence, keeping in view the entirety of the factual *milieu* of the case in hand; especially the contraband alleged to be recovered being commercial quantity of 2.5 kgs. of heroin; the petition in hand deserves to be dismissed.

8. Ordered accordingly.

9. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

March 30, 2026

Yag Dutt

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No