



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

211

CRM-M No.18272 of 2024 (O&M)

Date of Decision: 12.02.2026

Gulzar Singh

.....Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

**Present:** Mr. S.S.Aviraj, Advocate for the petitioner.

Mr. Rajiv Sharma, Sr. Standing Counsel  
for NCB-respondent.

**SURYA PARTAP SINGH, J. (Oral):**

This is first petition for bail, filed by the petitioner under Section 439 of the Code of Criminal Procedure 1973, with regard to commission of offence punishable under Sections 8, 18, 27-A, 29 and 60 of Narcotic Drugs & Psychotropic Substances Act, 1985, hereinafter being referred to as 'NDPS Act'. The petitioner has been taken into custody in a case pertaining to FIR/crime case No.24 dated 20.10.2023, Police Station NCB CZU Chandigarh.

2. Heard.

3. It has been contended on behalf of petitioner that the petitioner is 68 years old person, who is suffering from serious ailments and undergoing regular treatment. According to learned counsel for the petitioner the recovery of contraband, which does not come within the ambit of commercial quantity, is from a vehicle which was neither owned by the petitioner nor being driven by him. It has also been contended by learned counsel for the petitioner that co-



accused have already been enlarged on bail, and that in the present case the total custody period served by the petitioner is more than 10 months. It has also been contended by learned counsel for the petitioner that petitioner has clean antecedents, and that trial is taking place at a slow pace, as out of 15 only 2 witnesses have been examined so far.

4. The above mentioned arguments have been controverted by the learned Senior Standing Counsel for the respondents. It has been contended by the learned Senior Standing Counsel for the respondents that in the present case there was a very specific tip-off from a reliable source, to the officials of NCB Chandigarh, that the petitioner and his two co-accused were involved in the transportation of opium. According to him in view of above mentioned information the car wherein the petitioner was travelling, and the contraband was being transported, was intercepted and the packet of opium concealed behind an iron sheet, by making a special cavity, near rear mud guard of the car was recovered. As per learned Senior Standing Counsel for the respondents once the recovery had taken place the petitioner and his co-accused were duly interrogated and they had suffered their respective disclosure statements wherein they admitted their involvement in the commission of crime.

5. In addition to above, the learned Senior Standing Counsel for the respondents has also contended that right from the very beginning the petitioner is playing mischief and by taking advantage of his medical condition, and that he has been enjoying the benefit of interim bail since long.

6. According to learned Senior Standing Counsel for the NCB the recovery of contraband in the present case is very close to lower threshold meant for commercial quantity of opium and that role played by the petitioner in the commission of the crime was a pivotal role, and thus, he is not entitled for the



benefit of bail.

7. The record has been perused carefully.

8. 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 a 68 years old person and the medical history available on record shows that for a very long time he is on interim bail due to serious ailments;
- ii) that the petitioner has no criminal antecedents;
- iii) that nothing is left to be recovered from the possession of petitioner;
- iv) that the recovery of contraband from the possession of petitioner comes within the ambit of non-commercial quantity and therefore, rigors of Section 37 of NDPS Act are not attracted in the instant case;
- v) that the vehicle from which the recovery had taken place was neither owned by the petitioner nor he was driving the same;
- vi) that the trial is taking place at a slow pace as out of 15 only 2 witnesses have been examined so far;
- 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;



- ix) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

9. 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 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".

10. 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 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”.

11. 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”.

12. 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 an undertrial prisoner, as mandated by Hon'ble Apex court in 'Balwinder Singh versus State of Punjab and another' 2024 SCC Online SC 4354.

13. 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.

14. 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. However, the abovesaid benefit shall be subject to 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 disclosing 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 trial Court.

(SURYA PARTAP SINGH)  
JUDGE

12.02.2026

*Manoj Bhutani*

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