



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

221**CRM-M-11301-2026 (O&M)****Date of decision : 26.05.2026**

Rashpal Singh @Billa

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Umesh Aggarwal, Advocate for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J.

This petition for bail is the second petition filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023. It has been filed with regard to a case arising out of FIR No.292 dated 18.11.2024, for the commission of offence punishable under Sections 21, 23, 29, 61 and 85 of Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Gharinda, District Amritsar Rural.

2. The FIR of this case came into being at the instance of 'SI Kulwant Singh' who had reported that on 18.11.2024, the petitioner was taken into custody as they were found roaming in the border area in suspicious circumstances. According to abovenamed police officer both the petitioners were detained under Section 128 of Bharatiya Nagarik Suraksha Sanhita, 2023 and during the course of custody when enquiries were made from them, they suffered their respective disclosure statements, pursuant to which 470 grams of Heroin was recovered.



3. According to abovenamed police officer pursuant to recovery of abovementioned contraband, requisite formalities with regard to seizure and sealing of contraband, and lodging of present FIR were completed and further investigation taken up.

4. Custody Certificate and short reply have been filed by learned State Counsel. The same be taken on record.

5. Heard.

6. It has been contended by learned counsel for the petitioner that the petitioner has clean antecedents and that this is the second petition for bail filed by the petitioner. As per learned counsel for the petitioner, the first petition for bail, filed by the petitioner, was not decided on merits and that the same was dismissed as withdrawn. According to learned counsel for the petitioner in the present case, the petitioner has already suffered incarceration for a period of one year six months and two days and that trial is taking place at a slow pace as out of 11 prosecution witnesses not even a single witness has been examined so far. In view of above, the learned counsel for the petitioner has contended that due to delay in trial, valuable rights of speedy trial of petitioner is being infringed and therefore, rigors of Section-37 of NDPS Act deserves to be relaxed.

7. The learned State Counsel has controverted the abovementioned arguments. According to learned State Counsel in the present case, the recovery of contraband from the possession of petitioner comes within the ambit of commercial quantity and unless the twin conditions enshrined under Section-37 of NDPS Act are complied with, the petitioner should not be accorded the benefit of bail.



8. The record has been perused carefully.
9. To deal with the 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 abovementioned 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 abovementioned case afforded the benefit of bail to the accused.
10. 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.
11. 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.
12. 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.
13. 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 one year six months and two days;
- (ii) that the petitioner has clean antecedents;
- (iii) that there is delay in trial as out of 11 prosecution witnesses, none have been examined so far;
- (iv) that investigation in this case is already complete and therefore, nothing has been left to be recovered from the possession of petitioner;
- (v) that the detention of petitioner in judicial lock up is not likely to serve any purpose;
- (vi) that in the given fact situation, the rigors of Section 37 deserves to be relaxed due to prolonged incarceration of the petitioner;
- (vii) 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
- (viii) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in trial.

14. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India 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”.

15. 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”.

16. 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”.

17. 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.

18. 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.

19. 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 abovementioned concession 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 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

26.05.2026
Vinod

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