



CRM-M-11760-2026 1

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

209

**CRM-M-11760-2026
Date of decision: 18.04.2026**

GAURAV SARWATA ALIAS MICHAL

.....PETITIONER

Versus

STATE OF PUNJAB

. RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Mehar Nagpal, Advocate
for the petitioner.

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

SURYA PARTAP SINGH, J.

1. This petition for bail is the first petition, filed by the petitioner under Section 483 of 'the Bharatiya Nagarik Suraksha Sanhita, 2023'. This petition has been filed with regard to a case arising out of FIR No.262 dated 13.11.2025 for the commission of offence punishable under Sections 21 and 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station City Phagwara, District Kapurthala.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being at the instance of ASI Darshan Singh. It was reported by the above-named police official that on 13.11.2025, when he was leading a



team of police officials, deputed for patrolling duty a young person going on foot was spotted near 'Red Palace'. According to above-named police official on the basis of his suspicion conduct, when above-said person was apprehended and search of his person was conducted he was in found possession of 5 grams of Heroin and 40 tablets of Etizolam. As per prosecution the above-said person, on enquiry, had disclosed his name as 'Karan Kalyan'.

3. According to prosecution in view of recovery of above-mentioned contraband, requisite formalities with regard to seizure and sealing of contraband, filing of FIR and formal arrest of above-named person were completed, and thereafter, further investigation taken up. According to prosecution case during the course of investigation when the above-named accused was interrogated, he suffered a disclosure statement, wherein he nominated the present petitioner as the supplier of the above-mentioned contraband.

4. Notice of motion.

5. Since advance notice has already been served upon the State, Mr. I.P.S. Sabharwal, DAG, Punjab., accepts notice on behalf of respondent-State. Hence, the service of notice upon the State is hereby dispensed with. The learned State counsel has filed the custody certificate. The same be taken on record. No formal reply has been filed by the State. However, the learned State counsel has orally opposed the present petition.

6. Heard.

7. It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case, and that at the time when the present FIR was registered, there was no case under NDPS Act



pending against the petitioner. It has also been contended by learned counsel for the petitioner that the only evidence collected against the petitioner is the confessional statement of co-accused, which is inadmissible in evidence.

8. The learned State counsel has controverted the above-mentioned arguments. According to learned State counsel in the present case the recovery of contraband, from the possession of co-accused, comes within the ambit of commercial quantity and therefore, without satisfying the rigorous of Section 37 of NDPS Act, the benefit of bail should not be accorded. It has also been contended by learned State counsel that the FSL report in this case is yet to be received.

9. The record has been perused carefully.

10. Since the involvement of petitioner in the present case is on the basis of disclosure statement of co-accused, the observation made in the case of 'Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence' 2018(3) SCC Online SC 757, are relevant, wherein 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. In the case of 'Vijay Singh Vs. The State of Haryana', 2023 SCC Online SC 1235, the benefit of anticipatory bail has been accorded by the Hon'ble Supreme Court of India to the person, who was not present on the spot at the time of recovery of contraband.

14. 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 nothing has been recovered from the possession of petitioner and therefore, rigours of Section 37 of NDPS Act are not applicable;
- ii) that the only evidence, collected by the Investigating Agency against the petitioner, is the disclosure statement of his co-accused, and there is a question mark with regard to credibility & admissibility of above-mentioned statement in evidence, as the same was recorded when the co-accused of the petitioner was in police custody. Since pursuant to above-mentioned disclosure statement no recovery of incriminating material or discovery of fact has taken place, *prima facie* the above-mentioned statement appears to be hit by Section-23 of Bharatiya Sakshya Adhiniyam;
- iii) that the petitioner is already in custody for a period of more than five months;
- iv) that nothing has been left to be recovered from the possession of petitioner;
- v) that the investigation and the trial is not likely to be concluded in near future;
- vi) that the detention of petitioner in judicial lock-up is not likely to serve any useful purpose;
- 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;

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

15. 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) 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".

16. 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”.

17. 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”.

18. 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.

19. 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.

20. 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 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

18.04.2026

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