



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CRM-M No.13282 of 2026 (O&M)

Date of Decision: 28.04.2026

Onkar

.....Petitioner

Versus

Union of India NCB Chandigarh and another

..... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr.Kartar Singh, Advocate for the petitioner.

Mr. Rajiv Sharma, Special Public Prosecutor for NCB.

Ms. Deepali Verma, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

This is first petition for bail, filed by the petitioner under Section 483 of the 'Bharatiya Nagarik Suraksha Sanhita 2023'. This petition pertains to a case arising out of FIR No.135 dated 05.08.2021, for the commission of offence punishable under Section 21 of Narcotic Drugs & Psychotropic Substances Act, 1985, Police Station Jhansa, District Kurukshetra. Later on the case was transferred to NCB Chandigarh and complaint No.80 dated 31.01.2022 for the commission of offence under Sections 8, 21, 27-A, 29, 31, 31-A and 62 of NDPS Act, Police Station NCB Chandigarh.

2. Briefly stating the facts emerging from record are that one FIR No.135 dated 05.08.2021, for the commission of offence under Section 21 of NDPS Act was lodged in Police Station Jhansa, District Kurukshetra, and thereafter, the investigation of above mentioned case was transferred to the



Narcotics Control Bureau (NCB).

3. According to prosecution on 05.08.2021 a person, named 'Tej Partap', was arrested and from his possession 285 grams of 'Heroin' was recovered. As per case set-out by the prosecution when during the course of investigation of above mentioned case, house of 'Tej Partap' was raided additional recovery of 520 grams of 'Heroin' was effected along with 8,45,000/- drug money. It is the case of the prosecution that pursuant to above mentioned recovery when the accused 'Tej Partap' was interrogated he suffered a disclosure statement wherein he stated that he used to purchase Heroin/smack at cheaper rate from Madhya Pradesh, and thereafter, sell it to 'Gurpreet @ Baliohar' and 'Onkar' (the petitioner herein)

4. Heard.

5. It has been contended by learned counsel for the petitioner that the petitioner is innocent, and that the only evidence collected against the petitioner is the disclosure statement of his co-accused. According to learned counsel for the petitioner the above mentioned disclosure statement of co-accused is inadmissible in evidence as the disclosure statement was recorded when the co-accused was already in police custody, and pursuant to above mentioned disclosure statement nothing incriminating has been recovered.

6. The learned Special Public Prosecutor for the NCB has controverted the above mentioned arguments. It has been contended by the learned Special Public Prosecutor for NCB, that past conduct of the petitioner in itself renders him ineligible for the benefit of bail. According to learned Special Public Prosecutor in the present case the petition for anticipatory bail



filed by the petitioner was dismissed on 29.10.2021, and thereafter, he absconded. As per learned Special Public Prosecutor, thereafter the petitioner was arrested in some other case and from his possession 3.5 Kgs 'Heroin' and drug money amounting to Rs.6,50,000/- was recovered.

7. It has also been contended by the learned Special Public Prosecutor for NCB that in view of arrest, in another case, the petitioner was taken into custody in the present case on 25.08.2025. The learned Special Public Prosecutor for NCB has contended that there are very specific allegations against the petitioner and the above mentioned evidence coupled with the past conduct of the petitioner renders him dis-entitled for the benefit of bail.

8. 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 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.

9. Similarly, 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.



10. 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.

11. 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.

12. The record has been perused carefully.

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 more than eight months;
- ii) that nothing has been recovered from the possession of petitioner, and therefore, the rigors of Section-37 of NDPS Act are not attracted, in the present case, qua the role attributed to the petitioner;
- iii) that the only evidence collected by the investigating agency against the petitioner is the disclosure statement of co-accused of the petitioner, and there is a question mark with regard to credibility & admissibility of above-mentioned statement in evidence, as the same was recorded when he 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 abovementioned statement appears to be hit by Section-23 of Bharatiya Sakshya Adhiniyam;

- iv) that the investigation in this case is already complete, and therefore, nothing has been left to be recovered from the possession of petitioner;
- v) that the trial of this case 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 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.

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) 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”.

15. 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



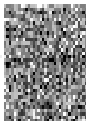
with continued custody would be a case of grave injustice”.

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

18. 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.

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 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.

20. It is, however, made clear that any observation made hereinabove is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(SURYA PARTAP SINGH)
JUDGE

28.04.2026
Manoj Bhutani

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