



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

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CRM-M-12817-2026

Date of decision : 13.03.2026

Date of uploading : 13.03.2026

HAPPY KUMAR @ GANDHI

.....PETITIONER

Versus**STATE OF PUNJAB**

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Hemant Passi, Advocate for
Mr. Rahl Garg, Advocate for the petitioner.

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

SUMEET GOEL, J. (ORAL)

1. Present second 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 FIR No.0144 dated 11.10.2025 under Sections 21 of NDPS Act and Section 27 of NDPS Act added later on, registered at Police Station City Mansa, District Mansa.
2. At the outset, learned counsel for the petitioner submits that due to inadvertence the present petition has been described as a second petition, whereas in fact the petition in hand is the first petition seeking grant of regular bail.
3. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

" Copy of Rukka, "SHO Police Station City 1 Mansa 'Fateh' Today I, HC, along with Senior Constable Kanwaldeep Singh 08/Mansa, Lady Senior Constable Jaspreet Kaur 91/Mansa, P/HC Mohit Singla 902/PBI, was patrolling the area of Police Station City 1 Mansa and Police Station City 2 Mansa in official vehicle Bolero Camper number PB31P5538, which was being driven by Constable China Ram 594/Mansa; while patrolling,



the police party was going from Rekhi Hospital towards Chakerian Phatak Mansa. When the police party was about 200 meters behind Chakerian Phatak Mansa, a clean-shaven (mona) person was seen coming on foot from the front on the right side of the road, who suddenly got nervous upon seeing the police vehicle and, after taking an object out of the right pocket of the lower he was wearing, threw it into the grass/weeds by the roadside and started turning back. On the basis of suspicion, he was apprehended with the help of fellow employees and asked for his name and address, who identified himself as Happy Kumar alias Gandhi, son of Ram Chand, son of Babu Ram, resident of Ward Number 04, Old Vegetable Market Mansa. His physical description: age about 38 years, height 5'8", dark complexion, trimmed beard and hair, old injury marks on both feet, healthy. Then I, HC, sent Sr. Const. Kanwaldeep Singh 08/Ma to bring a private witness from the spot, who returned after some time and informed that he met some passersby, but no private witness was ready to join, as everyone expressed their own compulsions. Then I, HC, took the said Happy Kumar to the object thrown by him and, having the object picked up by the said Happy Kumar alias Gandhi, opened and checked the transparent plastic pouch, which, according to my experience, contained recovered Heroin/Chitta. Then I, HC, to test the recovered Heroin (Chitta) with a drug detection kit, put a matchstick-sized amount of the recovered heroin into a tray, added one drop of Reagent A-1 and three drops of Reagent A-2, and upon stirring with a slide, the color of the substance matched the chart provided in the drug detection kit, which indicates Heroin. Then I, HC, weighed the recovered Heroin/Chitta with a computer scale, and the weight of the Heroin/Chitta, including the transparent plastic pouch, was 12 grams. The pouch of heroin was put into a cloth bag and a parcel (pulanda) was prepared. The parcel was sealed with my seal bearing initials 'HS', a sample seal was prepared separately, and after use, the seal was handed over to witness Sr. Const. Kanwaldeep Singh 08/Ma. Then I, HC, took the parcel of Heroin/Chitta and the said sample seal into police possession through a separate memo (fard), which was signed by the witnesses. Videography of the spot was conducted by Constable China Ram 594/Ma on the phone of I, HC, through the E-Saakshi app as per the instructions of I, HC. The accused Happy Kumar alias Gandhi has committed an offense under Section 21/61/85 of the NDPS Act by keeping Heroin/Chitta in his possession; therefore, this rukka against the accused Happy Kumar alias Gandhi for the said offense is being sent to Police Station City 1 Mansa through Lady/Sr. Const. Jaspreet Kaur 91/Mansa. After registering the case, inform about the case number. Special reports should be issued and IPCR Mansa should be informed; I, HC, along with my companions, am busy with the investigation at the spot. Signed/- HC Hakam Singh 1107/Mansa, CIA Staff Mansa, dated 11.10.2025. Limits Near Chakerian Phatak Mansa AT: 01.30 PM; upon receipt of the said rukka at the police station, the said case for the said offense was registered against Happy Kumar alias Gandhi, son of Ram Chand, son of Babu Ram, resident of Ward Number 04, Old Vegetable Market Mansa, and the record was completed. The original rukka along with a copy of the FIR is being sent back to the spot to HC Hakam Singh 1107/Mansa through Lady Sr. Const. Jaspreet Kaur 91/Mansa. Copies of the FIR are being sent as special reports through Sr. Const. Avtar Singh 1037 to the Honorable Area Magistrate and higher officers; separate information is being sent to IPCR Mansa via email."

4. Learned counsel for the petitioner has argued that the petitioner

is in custody since 11.10.2025. Learned counsel has further argued that

the petitioner has been falsely implicated into the FIR in question. Learned



counsel for the petitioner has further submitted that the mandatory provisions of the NDPS Act have not been complied with, and thus, the prosecution case suffers from inherent defects. Learned counsel has further submitted that, assuming *arguendo*, the prosecution version is taken to be correct. There is an alleged recovery of 12 grams of heroin from the petitioner, which is non-commercial in nature & thus the rigour of Section 37 of the NDPS Act would not apply. Thus, regular bail is prayed for.

5. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 12.03.2026 in Court, which is taken on record.

6. I have heard counsel for the parties and have gone through the available records of the case.

7. The petitioner was arrested on 11.10.2025 wherein after investigation was carried out and challan stands presented on 10.12.2025. Total 14 prosecution witnesses have been cited but none has been examined till date. It is thus indubitable that culmination of trial will take its own time. It is not in dispute that the contraband allegedly recovered from the petitioner is 12 grams of Heroin, which is non-commercial quantity. Thus, the rigour of Section 37 of the NDPS Act would not apply. The rival contentions raised by learned counsel give rise to debatable issues which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner



absconding from the process of justice or interfering with the prosecution evidence.

7.1 As per custody certificate dated 12.03.2026 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 5 months and is shown to be involved in other case. As per the said custody certificate, the petitioner is stated to be involved in other cases/FIRs. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586*; a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in *CRM-M No.38822-2022* titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

8. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following



conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.
- (viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after his being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

10. Ordered accordingly.

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

(SUMEET GOEL)
JUDGE

13.03.2026

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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No