IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

215 **CRM-M-16478-2026 (O&M)**
Date of decision : 24.04.2026

Davinder Singh @Gaggi

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Parminder Singh Sekhon, Senior Advocate with
Ms. Sweedel Goyal, Advocate for the petitioner.

Mr. Rohit Bansal, Sr. DAG Punjab.

*****

SURYA PARTAP SINGH, J.

This petition for bail is the first 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.88 dated 22.11.2024, for the commission of offence punishable under Sections 15 and 21 of Narcotic Drugs and Psychotropic Substances Act, hereinafter being referred to as 'NDPS Act', Police Station Sherpur, District Sangrur.

2. The abovementioned FIR came into being at the instance of 'ASI Balwinder Singh', who had reported that on 22.11.2024, when he was leading a team of police officials, on the basis of a tip-off given by a reliable source, he visited the house of Davinder Singh @Goggi (the petitioner herein). According to above-named police officer, when the police party was approaching the house of petitioner, outside his house, there was a car,

GAURAV THAKUR
2026.04.24 18:14
I attest to the accuracy and
integrity of this document

wherein the petitioner was sitting along with 'Hardeep Singh', and when the search of abovementioned car was conducted, 10 kg of poppy husk and 20 gms of Heroin along with drug money of Rs.4,15,000/- were recovered.

3. It is the case of the prosecution that pursuant to recovery of abovementioned contraband, necessary formalities with regard to seizure & sealing of contraband, lodging of FIR, and formal arrest of the accused were completed, and further investigation taken up. According to prosecution, when the petitioner was interrogated, he suffered a disclosure statement and got recovered 01 kg of Heroin from his possession.

4. **Notice of motion**.

5. Mr. Rohit Bansal, Sr. DAG Punjab appears on behalf of respondent-State. Hence service of notice upon the State is hereby dispensed with. The learned State Counsel has filed custody certificate of the petitioner. 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 Senior Counsel for the petitioner that the petitioner has already suffered incarceration for almost one year and five months, and that the most significant lapse committed by the Investigating Officer in the present case is that, that as per prosecution story, the recovery of 01 kg of Heroin had taken place on the basis of information provided by the petitioner, but at the time of recovery, neither

GAURAV THAKUR
2026.04.24 18:14
I attest to the accuracy and
integrity of this document

any person of the locality was joined, nor any senior officer was informed about the same. It has also been contended by learned Senior Counsel for the petitioner that the abovementioned lapse on the part of Investigating Officer shatters the very credibility of the claim of the prosecution, qua the fact that the petitioner was found in possession of 'commercial quantity' of contraband.

8. The learned State Counsel has controverted the abovementioned arguments. It has been contended by learned State Counsel that in the present case, although at the first instance the quantity of recovered contraband was not the 'commercial quantity', yet, subsequently on the basis of information provided by the petitioner, from his house 01 kg of 'Heroin' was recovered. According to State Counsel, the abovementioned quantity of 'Heroin' comes within the ambit of 'commercial quantity', and therefore, unless the twin conditions enshrined under Section-37 of NDPS Act are satisfied, the benefit of bail should not be accorded to the petitioner.

9. The record has been perused carefully.

10. In the present case, it is relevant to note here that right from the very beginning, there are very specific and categorical allegations against the petitioner that on the basis of secret information, when he was nabbed by the police party, he was found in possession of 10 kg of poppy husk and 20 gm of Heroin.

11. The prosecution in the present case has very categorically come forward with a plea that during the course of investigation, when the

GAURAV THAKUR
2026.04.24 18:14
I attest to the accuracy and
integrity of this document

petitioner was interrogated, he suffered a disclosure statement pursuant to which 01 kg of Heroin has been recovered. Since the disclosure statement suffered by the petitioner has led to the recovery of contraband, *prima facie* the abovementioned disclosure statement seems to be admissible in evidence.

12. Otherwise also, it shall not be out of place to mention here that the petitioner does not have clean antecedents. Earlier also, the petitioner has been prosecuted for seven different offences and out of those seven offences, one was under NDPS Act.

13. Since in the present case the quantity of recovered contraband comes within the ambit of 'commercial quantity', rigors of Section-37 of NDPS Act are applicable and therefore, without satisfying the twin conditions enshrined under Section-37 of NDPS Act, the petitioner cannot be enlarged on bail. The contents of the record show that there is nothing on record to lead to a conclusion that twin conditions prescribed under Section-37 of NDPS Act stands complied with in the present case.

14. Taking into consideration the cumulative effect of all the abovementioned factors, it is hereby held that at this stage the petitioner is not entitled for the benefit of bail.

15. As a sequel to abovementioned observations, it is hereby held that being devoid of merit, the present petition deserves dismissal. Hence, the same is hereby ***dismissed***, accordingly.

GAURAV THAKUR
2026.04.24 18:14
I attest to the accuracy and
integrity of this document

16. However, it is clarified that the abovementioned observations shall not have any bearing upon the merits of the case.

17. Pending miscellaneous application(s), if any, also stand(s) disposed of, accordingly.

(SURYA PARTAP SINGH)
JUDGE

24.04.2026
Gaurav Thakur

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

GAURAV THAKUR
2026.04.24 18:14
I attest to the accuracy and
integrity of this document