



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

237

**CRM-M-18014-2026 (O&M)
Date of decision : 09.04.2026**

Gurwinder Singh @Mehak

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Rajiv Kumar Saini, Advocate for
Mr. Vinod K. Kaushal, Advocate for the petitioner.

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

SURYA PARTAP SINGH, J. (oral)

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.166 dated 16.09.2023, for the commission of offence punishable under Sections 21(b), 25, 27(a), 21-C and 29 of Narcotic Drugs and Psychotropic Substances Act, hereinafter being referred to as 'NDPS Act', Police Station Cantonment, District Police Commissionerate Amritsar.

2. The abovementioned FIR came into being at the instance of 'SI Gurinder Singh', who reported that on 16.09.2023, when he was leading a team of police officials, near Village Nahal Ram Tirath, a check-point for vehicle checking had been set-up. According to complainant, a car arrived there and the occupants of the car attempted to throw away a polythene bag.



According to above-named police officer, the abovementioned car driver was overpowered and when the contents of the cloth bag were checked, it was found that in the abovementioned bag, he was carrying cash worth Rs.13,50,000/-. As per above-named police officer, in addition to above from a polythene bag, being carried in the car, 50 gms of Heroin was also recovered. It was also reported that on enquiry, the above-named accused disclosed that he had received the abovementioned money by sale of Heroin.

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 performed, and further investigation taken up. According to prosecution, pursuant to disclosure statement suffered by 'Gurjit Singh @Saba', 800 gms of Heroin was recovered from his residence.

4. It is further case of the prosecution that when accused Gurjit Singh was interrogated, he suffered further disclosure statement, wherein he stated that out of 01 kg Heroin, 150 gms Heroin was given to some unknown person at the instance of Gurwinder Singh (the petitioner herein).

5. **Notice of motion.**

6. Mr. I.P.S. Sabharwal, DAG, Punjab appears on behalf of respondent-State. Hence service of notice upon the State is hereby dispensed with. No custody certificate of the petitioner and formal reply have been filed by the State. However, the learned State Counsel has orally opposed the present petition.

7. Heard.



8. The record has been perused carefully.
9. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration for a decision: -
- i) that the petitioner is already in custody for a period of more than two-and-a-half years;
 - ii) that the petitioner was not present at the spot at the time of recovery;
 - iii) 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 co-accused of the petitioner was in police custody. Prima facie the abovementioned statement appears to be hit by Section-23 of Bharatiya Sakshya Adhiniyam;
 - iv) that the investigation is already complete, and therefore, nothing has been left to be recovered from the possession of petitioner;
 - v) that co-accused of the petitioner has already been accorded the benefit of bail;
 - vi) that the trial is not likely to be concluded in near future;
 - vii) that the detention of the petitioner in judicial lockup is not likely to serve any purpose;
 - viii) 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
 - ix) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.



10. 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 also 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".

11. 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”.

12. 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”.

13. 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.

14. 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.

15. 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

09.04.2026

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No