



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

Sr.No.239

**CRM-M-19225-2026
Decided on : 21.05.2026**

Saba Kumar @ Sabha Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present : Mr. Manoj R.Sharma, Advocate
for the petitioner.

Mr. Amritpal Singh Gill, DAG, Punjab
for the respondent(s)-State.

RUPINDERJIT CHAHAL, J (ORAL)

1. Prayer in the instant petition filed under Section 483 of BNSS, 2023 is for grant of regular bail to the petitioner in case FIR No.149 dated 21.11.2025 registered under Sections 21(b), 27-A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sadar Gurdaspur, District Gurdaspur.

2. Brief facts of the present case, as per the prosecution, are that on 21.11.2025, ASI Balwinder Singh along with his fellow police officials was on a patrolling duty and, on the basis of suspicion, signalled a car to stop. The petitioner, along with co-accused Gagandeep Singh was apprehended. Co-accused Gagandeep Singh, who was driving the car, threw a black coloured polythene bag outside the vehicle. Upon search of the said



polythene bag, 50 grams of Heroin and Rs.11,000/- as drug money was recovered. Additionally, Rs.11,000/- from the conscious possession of the said co-accused was also recovered. Hence, the present FIR.

3. Learned counsel for the petitioner contends that the petitioner is innocent and has been falsely implicated in the present case. He further contends that the allegations levelled against the petitioner are false and he has no concern with the said offence. Learned counsel contends that mandatory provisions of the NDPS Act were not complied with at the time of alleged search and seizure. He further contends that the recovery of alleged contraband has already been effected from the petitioner which is intermediate in quantity and nothing more is to be recovered from him. Learned counsel contends that the recovered quantity is non-commercial in nature. He submits that the similarly situated co-accused Gagandeep Singh has already been granted the concession of regular bail by this Court vide order dated 24.02.2026 (Annexure P-3). The petitioner is in custody since 21.11.2025. The investigation in this case is still going on. He further submits that the trial will take a long time to conclude and no useful purpose would be served by keeping him behind bars. Therefore, it is urged that the present petition deserves to be allowed.

4. Learned State counsel has filed the custody certificate as well as the status report, which are taken on record. He has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature and he was apprehended at the spot with the alleged contraband. He has further submitted that the petitioner is involved in multiple other cases of similar nature, meaning thereby he is a habitual offender.



5. Having heard learned counsel for the parties at length and after perusing the record of the case, it is evident that the petitioner is in custody for the last more than 05 months and 26 days; recovered contraband falls under intermediate quantity; co-accused has already been granted the concession of regular bail by this Court; investigation is still underway and the fact that trial may take a long time to conclude, no useful purpose would be served by detaining him in further custody. His continued detention without the prospect of the trial being concluded in the near future would be violative of his rights under Article 21 of the Constitution of India.

6. Reliance in this regard is placed upon a judgment of Hon'ble Supreme Court in the case of ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, wherein Hon'ble Apex Court has held that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle "bail is a rule" and "jail is an exception".

7. Moreover, prolonged detention of the petitioner, without any likelihood of the trial being concluded in the near future, would amount to a violation of their fundamental rights guaranteed under Article 21 of the Constitution of India.

8. As regards the submission of learned State counsel that petitioner is involved in other/one more criminal case(s), reference is placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** in which, it is held that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot



be rejected solely on the ground that the petitioner is involved in other/another case(s). The relevant portion of the said judgment is reproduced herein-below:-

"As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

9. In view of the above, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned. It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

10. All miscellaneous application(s), if any, stands disposed of accordingly.

21.05.2026
mamta

(RUPINDERJIT CHAHAL)
JUDGE

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