



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

213

CRM-M-21125-2026 (O&M)
Date of decision: 24.04.2026

Davinder Kumar

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Meena, Advocate for
Mr. Amit Arora, Advocate for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY, J. (ORAL)

1. Prayer in the present petition filed under Section 483 BNSS is for grant of regular bail to the petitioner in case FIR No.55 dated 14.12.2023, registered under Sections 21, 23(c), 25, 29 of NDPS Act and Section 23(c) deleted later on, at Police Station State Special Operations Cell, Amritsar, District Intelligence Wing (CID).

2. Learned counsel contends that the petitioner has been in custody for 2 years and more than 4 months. The alleged recovery of 500 grams of Heroin was effected from the dashboard of the car, in which, he along with co-accused were travelling. Co-accused Jagdeep Singh has since been granted regular bail by this Court vide order dated 21.01.2026, Annexure P-4. It is thus debatable whether he is in the conscious possession thereof or not. There is non-compliance of mandatory provisions of Sections 42 and 50 of NDPS Act. No independent witness was joined. Charges have been framed on 23.07.2025,



however, out of 16 prosecution witnesses, only 5 have been examined. The petitioner is involved in 3 more cases, in 2 of which, he is on bail and in the 3rd, his sentence has already been suspended. Reliance is placed on the judgment passed by Hon'ble The Supreme Court titled as **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

3. The custody certificate dated 23.04.2026, filed by the learned State counsel is taken on record. As per the same, the petitioner is behind bars for 2 years, 4 months & 4 days.

4. Learned State counsel opposes the bail on the ground that the commercial quantity of contraband was recovered from the petitioner and co-accused. However, he is unable to controvert the submissions with regard to stage of the case, co-accused having been granted bail and the petitioner being on bail in two cases, while his sentence was suspended in 1.

5. Heard.

6. Hon'ble The Supreme Court in the case of **Maulana Mohd. Amir Rashadi** (Supra) had held that, "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." Reiterating in **Prabhakar Tewari vs. State of UP and another**, (2020) 11 SCC 648, it was observed that, "The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail."



7. Hon'ble The Supreme Court in **Shariful Islam @ Sarif versus The State of West Bengal** SLP (Crl.) No.4173/2022, decided on 04.08.2022, granted bail to the petitioner in a case of recovery of commercial quantity of contraband, considering incarceration for over 1 year and 6 months and there being no likelihood of completion of trial in the near future, while the Division Bench of this Court in **Bhupender Singh vs. Narcotic Control Bureau** (2022) 2 RCR (Crl.) 706, observed with regard to achieving balance between right to speedy trial guaranteed under Article 21 of the Constitution of India and rigors of Section 37 of NDPS Act.

8. This Court in the case of **Balraj Singh vs. State of Punjab** CRM-M-57386-2022, on 14.12.2022 has followed the dictum laid down by Hon'ble The Supreme Court and granted the bail to the petitioner therein after he had undergone total custody of 1 year and 6 months and in **Munasi Masih vs. State of Punjab**, CRM-M-31504-2022, on 06.2.2023, wherein commercial quantity of contraband had been recovered but only 2 out of 13 PWs had been examined, allowed bail.

9. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 2 years, 4 months and 4 days; on bail in 2 cases, while suspension granted in 1; co-accused is on bail; charges were framed on 23.07.2025; out of 16 prosecution witnesses, only 5 have yet been examined, the trial is likely to take a considerable time, further incarceration of the petitioner would be violative of his right enshrined under Article 21 of the Constitution of India and the rigors of Section 37 of the NDPS Act can be diluted bearing in mind the right to a speedy trial, the present petition is allowed.

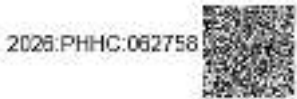


10. The petitioner is ordered to be released on regular bail, subject to furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned, if not required in any other case and shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number by way of an affidavit to the trial Court and not change the same till conclusion of trial and if for any reasons, he seeks to change either of the aforesaid, it shall be done only with prior information to the learned trial Court.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

11. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

12. In view of the above, it is clarified that the observations made



herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

24.04.2026
ashok

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