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(219) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-22245-2026 (O & M)
Date of Decision: 28.04.2026

Nishan Singh

... Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Nakul Sharma, Advocate
for the petitioner.

Mr. M.S. Toor, AAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in this second petition under Section 483 BNSS, 2023 (Section 439 Cr.P.C.) is for the grant of regular bail in case bearing FIR No.9 dated 21.01.2023 under Sections 21/61/85 of the NDPS Act and Section 25 of the Arms Act registered at Police Station Mamdot, District Ferozepur.

2. The brief facts of the case are that an FIR No.9 dated 21.01.2023 under Sections 21/61/85 of the NDPS Act and Section 25 of the Arms Act, Police Station Mamdot, District Ferozepur came to be registered against 09 persons including the present petitioner with the allegations that all of them were involved in drug trafficking and smuggling of weapons from Pakistan through drones. From an open field, the recovery of 02 kgs. of heroin, a Chinese made 30 bore pistol, two magazines and 12 live cartridges came to be effected.

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During the course of the investigation, Amarjit Singh, Sukhdev Singh @ Babbi, Mangal Singh and Khilara Singh were arrested. Mangal Singh was found innocent and discharged. The challan was submitted only against Sukhdev Singh @ Babbi, Amarjit Singh and Khilara Singh. Subsequently, Bittu and Arshdeep Singh were arrested and their supplementary challan was presented.

Sukhdev Singh @ Babbi, Khilara Singh, Arshdeep Singh and Bittu faced Trial and were acquitted vide judgment dated 19.03.2025 passed by the Judge, Special Court, Ferozepur (Annexure P-2).

The petitioner was declared a proclaimed offender and came to be arrested in the present case only on 30.08.2025.

3. The learned counsel for the petitioner contends that once the co-accused of the petitioner, namely, Sukhdev Singh, Khilara Singh, Arshdeep Singh and Bittu have been acquitted and certain findings have been recorded regarding no recovery having been effected from any of the accused and non-compliance of Section 42 of the NDPS Act, there is every likelihood of the petitioner being acquitted as well. As he is in custody since 30.08.2025 but only 02 of the 20 prosecution witnesses have been examined so far, the Trial of the present case is not likely to be concluded anytime soon and therefore, he is entitled to the concession of bail.

4. The learned State counsel, on the other hand, contends that the petitioner was absconding for a period of more than one and a half years and was declared a proclaimed offender on 10.07.2024. The co-accused were acquitted on 19.03.2025 and the petitioner came to be arrested only later on



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30.08.2025 as he was confined in jail with respect to another case under the NDPS Act. Merely because the co-accused have been acquitted does not entitle the petitioner to the grant of bail keeping in view the fact that he is an accused in three other cases under the NDPS Act and this Court cannot record a finding that he has not committed an offence and is not likely to commit one in future. Even otherwise, there are no change in circumstances warranting grant of bail when the first bail application of the petitioner came to be withdrawn as recently as on 17.03.2026. Therefore, the present petition is liable to be dismissed.

5. I have heard the learned counsel for the parties.
6. This is the second bail application on behalf of the petitioner. The detail of his earlier bail application is as under:-

Sr. No.	Bail Application	Date of Decision
1.	CRM-M-70940-2025	Dismissed as withdrawn on 17.03.2026

7. The details of other FIR(s) registered against the petitioner are as under:-

Sr. No.	FIR Nos. and date	Sections	Police Station	Status
1.	FIR No.294/2025 dt. 03.08.2025	21 NDPS Act	P.S. City Khara	Under Trial
2.	FIR No.2/2019	21, 25 NDPS Act	P.S. Mamdot	Under Trial
3.	FIR No.29/2025 dt. 02.05.2021	22 NDPS Act	P.S. Mamdot	Under Trial

8. Apparently, the petitioner is a serial offender with 03 other cases registered against him under the NDPS Act. No change in circumstances

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whatsoever have been pointed out by the counsel for the petitioner after the first bail application of the petitioner came to be argued and withdrawn as recently as on 17.03.2026 (Annexure P-12).

9. This Court in the case of **Soni Singh @ Chamkaur Singh Versus State of Punjab, CRM-M-31645-2022, decided on 20.10.2022**, held as under:-

“Admittedly, the petitioner in the present case is named in the disclosure statement of the arrested accused. Subsequently thereto 3Kgs of Poppy Husk was recovered at his instance which is a non commercial quantity. It may be relevant to mention here that limitations to the grant of bail under Section 37 of the NDPS Act are in addition to those prescribed under Cr.PC or any other law inforce on the grant of bail as has been set out by the Hon'ble Supreme Court in Satpal Singh Vs. State of Punjab 2018(5) RCR (Criminal) 152. In the present case, the petitioner is involved in two other cases under the NDPS Act. Thus, as he is a habitual offender, he is not entitled to the grant of bail even under Section 439 Cr.PC keeping in view his antecedents. Even otherwise, assuming that the rigors of Section 37 of the NDPS Act did not apply to the petitioner, that by itself would not ipso facto lead to the grant of bail to the petitioner.

In view of the above discussion, I find no merit in the present petition and the same is therefore dismissed.”

10. The Hon’ble Supreme Court in ***Union of India versus Vigin K. Varghese 2025 INSC 1316***, held as under:-

16. Further, while granting bail, the High Court recorded that there were no antecedents against the applicant. The material before this Court includes the Union's assertion that the respondent had already been apprehended in connection with an earlier seizure of approximately 198.1 kilograms of



Methamphetamine and 9.035 kilograms of Cocaine allegedly imported through the same channel only days before the present seizure. That assertion is neither noticed nor answered in the impugned orders.

17. The High Court then, on the strength of those premises, recorded a finding that there exist reasonable grounds to believe that the applicant is not guilty of the alleged offence, treating prolonged incarceration and likely delay as the justification for bail. Such a finding is not a casual observation. It is the statutory threshold under Section 37(1)(b)(ii) which would disentitle the discretionary relief and grant of bail must necessarily rest on careful appraisal of the material available. A conclusion of this nature, if returned without addressing the prosecution's assertions of operative control and antecedent involvement, risks trenching upon appreciation of evidence which would be in the domain of trial court at first instance.

18. This Court ordinarily shows deference to the discretion exercised by the High Court while considering the grant of bail. However, offences involving commercial quantity of narcotic drugs stand on a distinct statutory footing. Section 37 enacts a specific embargo on the grant of bail and obligates the Court to record satisfaction on the twin requirements noticed above, in addition to the ordinary tests under the Code of Criminal Procedure.

19. In the present case, the High Court has not undertaken the analysis of those twin requirements with reference to the material placed by the prosecution. The orders dated 22.01.2025 and 12.03.2025 do not advert to the allegation regarding the respondent's prior involvement in a seizure of narcotic drugs and psychotropic substances only days prior to the seizure forming the subject matter of the present complaint, nor do they engage



with the prosecution's assertion as to the respondent's role in arranging, importing, clearing and supervising the consignments. The omission to consider these factors bears directly upon the statutory satisfaction required by Section 37(1) (b).

20. We are of the view that, in the facts of this case, it would not be appropriate for this Court at the threshold stage itself to render findings on whether there are or not reasonable grounds, for believing that the respondent is not guilty, or on whether he is likely to commit any offence while on bail. That factual assessment, which the statute requires to be made and recorded with reasons, is one that the High Court must undertake upon a complete and fair appraisal of the rival contentions based on materials placed before it.

21. In our considered view, the interests of justice would be met if the impugned orders are set aside and the matter is remitted to the High Court for fresh consideration of the respondent's prayer for bail, keeping in view the parameters of Section 37 of the NDPS Act, the nature and quantity of contraband alleged to have been seized including 50.232 kilograms of Cocaine on 06.10.2022 and 07.10.2022, the role attributed to the respondent in the said import, the allegation of his involvement in an earlier seizure of 198.1 kilograms of methamphetamine and 9.035 kilograms of cocaine in early October 2022, the period of custody undergone since October 2022, and the stage of trial before the Special Court.

11. Keeping in view the allegations levelled against the petitioner as well as his antecedents, the satisfaction under Section 37 of the NDPS Act that he has not committed an offence and is not likely to commit one in the

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future cannot be recorded even though his co-accused have been acquitted as the evidence would be lead afresh in his Trial.

12. In view of the above discussion, I do not deem it appropriate to grant him the concession of bail and therefore, the present petition stands dismissed with costs of Rs.10,000/- to be paid to Day Care Centre for Elderly Disabled in home for Old and Destitute People, Sector 15, Chandigarh within a period of 02 weeks from today failing which the movable/immovable property of the petitioner to the extent of Rs.10,000/- be attached till the cost imposed is realized.

13. The pending application(s), if any, shall stand disposed of accordingly.

(JASJIT SINGH BEDI)
JUDGE

28.04.2026
sukhpreet

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