



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-22538 of 2026

Date of Decision: 26.05.2026

Sukhraj Singh @Joban

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Harmanpreet Singh, Advocate
for the petitioner(s).

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

Surya Partap Singh, J.(Oral)

1. 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. 331 dated 18.12.2025, for the commission of offence punishable under Section(s) 18, 21, 25 and 29 of 'the Narcotic Drugs and Psychotropic Substances Act, 1985' and Section 25(8) of the Arms Act, 1959, Police Station Lopoke, District Amritsar Rural, Punjab.

2. The FIR of this case came into being at the instance of 'ASI Harjinder Singh', who had reported that on 18.12.2025 when he was leading a team of police officials, deputed for vehicle checking duty, a motorcycle was intercepted on the basis of suspicion. According to above-named police official the driver of the above-mentioned motorcycle disclosed his name as

‘Jaskaran Singh’ and pillion rider as ‘Sukhraj Singh alias Joban’ (the petitioner herein). According to above-named police official on search of the body of above-said two persons a polythene bag being carried by ‘Sukhraj Singh alias Joban’, containing 1 kg. opium and four foreign made pistols, i.e. ‘Glock 26 Zen 4’, ‘Glock 19 Zen 4 & two Chinese ‘Norinco 30 bore’ pistols was recovered. It was also reported that from the possession of ‘Jaskaran Singh’ 25 grams of ‘Heroin’ was recovered.

3. 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.

4. Heard.

5. It has been contended by learned counsel for the petitioner that the petitioner is innocent who has been falsely implicated in the present case, and that contents of FIR itself show that the petitioner was pillion rider and from his possession 1 kg. opium, which is non-commercial quantity, and four foreign made pistols, i.e. ‘Glock 26 Zen 4’, ‘Glock 19 Zen 4 & two Chinese ‘Norinco 30 bore’ pistols has been recovered from his possession. It has also been contended by learned counsel for the petitioner that the petitioner has clean antecedents, and that otherwise also the quantity of recovered contraband either from the possession of petitioner or from the co-accused does not come within the ambit of commercial quantity and therefore, rigors of Section-37 of NDPS Act are not attracted in the present case.

6. According to learned counsel for the petitioner, the petitioner

has already suffered incarceration for a period of five months & one day, and that nothing has been left to be recovered from the possession of petitioner. In view of above, the benefit of bail has been claimed for the petitioner.

7. The learned State counsel has controverted the above-mentioned arguments. According to learned State counsel, in the present case, although from the actual physical possession of the petitioner only 1 kg Opium has been recovered, but his active involvement in the commission of a serious crime is proved, as he was carrying the bag containing narcotic substance and four foreign made pistols. As per learned State counsel the period of incarceration of the petitioner is not large enough to invite an inference that there is delay in trial. In view of above, the learned State counsel has sought for dismissal of present petition.

8. The record has been perused carefully.

9. A perusal of the record shows that there are several factors which are required to be taken into consideration at this stage. Those factors are:-

- i) that the petitioner has clean antecedents;
- ii) that the petitioner has already suffered incarceration for a period of more than five months and one day;
- iii) that the contraband found in his possession, as per FIR, is 1 kg of 'Opium', which is a non-commercial quantity and therefore, rigors of Section 37 of NDPS Act are not attracted in the present case qua the petitioner;

- iv) that the quantity of contraband found in possession of co-accused of the petitioner, too, does not come within the ambit of commercial quantity;
- v) that nothing has been left to be recovered from the possession of petitioner;
- vi) that the detention of petitioner in judicial lock-up is not likely to serve any purpose;
- vii) that trial of the case is not likely to be concluded in near future;
- viii) that there is nothing on record to show that while on bail, the petitioner is likely to tamper with the evidence or influence the witnesses; and
- ix) that there is nothing on record to show that while on bail, the petitioner will not participate/cooperate in the investigation.

10. With regard to the legal aspect involved in the instant case, it is relevant to mention that the Hon'ble Supreme Court of India in the case of 'Dataram v. State of Uttar Pradesh and Another' (2018) 3 Supreme Court Cases 22, has 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 v. Central Bureau of Investigation’ (2022) 10 Supreme Court Cases 51, are also relevant in this case. In the above mentioned 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 v. State of

Chhattisgarh', 2025 SCC Online SC 322 the Hon'ble Supreme Court of India 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 above mentioned 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 to 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 above said concession shall be subject to following conditions:-

- a) 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;
- b) 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 conclusion of trial; and
- c) that the petitioner shall not leave India without prior permission of the trial Court.

16. It is, however, clarified that any observations made in the above-mentioned order shall not be construed as an expression of opinion on the merits of the case.

(Surya Partap Singh)
Judge

26.05.2026

Vinod

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No