



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CRM-M No.26672 of 2026 (O&M)

Date of Decision: 15.05.2026

Harpreet Singh @ Harry

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr.Anmol Puri, Advocate for the petitioner.

Mr. Jasdev Singh Thind, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

This is third petition for bail, filed by the petitioner under Section 483 of the 'Bharatiya Nagarik Suraksha Sanhita 2023'. This petition pertains to a case arising out of FIR No.178 dated 02.10.2024, for the commission of offence punishable under Sections 21-B, 27-A and 29 of Narcotic Drugs & Psychotropic Substances Act, 1985, Police Station Chheharta, District Amritsar.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being on a complaint (ruqqa) submitted by SI Jagga Singh, who stated that on 01.10.2024, when he was heading a team of police officials comprising of several police officers, a secret information was received that 'Harpreet Singh @ Harry' (petitioner herein) was involved in the sale of drugs, and that on that day, he was in possession of heavy quantity of drugs, and present at Varindawan Garden, Fatehgarh Churian Road, Amritsar in white



coloured Swift car bearing registration No.PB03-AP-3901. As per prosecution, in view of abovementioned information, when the raid was conducted, the occupant of the car, namely 'Harpreet Singh @ Harry', was found in possession of 202 gms of 'Heroin'.

3. It is case of the prosecution that pursuant to recovery of above mentioned contraband requisite formalities with regard to seizure and sealing of contraband, formal arrest of the accused and registration of FIR were completed and further investigation taken up.

4. **Notice of motion.**

5. Since advance notice has already been served, Mr. Jasdev Singh Thind, DAG, Punjab, has appeared on behalf of respondent-State. Hence, service of notice upon the State is hereby dispensed with. 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.

6. Heard.

7. It has been contented by learned counsel for the petitioner that petitioner has already suffered incarceration for a period of one year and seven months, and that the quantity of recovered contraband comes within the ambit of non-commercial quantity. The learned counsel for the petitioner has further contended that there is no evidence to show that the money recovered from the possession of petitioner was drug money, and that trial is not likely to be concluded in near future, as even the charge is yet to be framed. According to learned counsel for the petitioner, the former two petitions were not decided on



merits.

8. The learned State counsel has controverted the above mentioned arguments. According to learned State counsel since the recovery of contraband has taken place from the possession of petitioner and petitioner is the main accused, he is not entitled for the benefit of bail particularly when the charge in this case is yet to be framed. It has also been contended by learned State counsel that from the date of dismissal of second bail petition no change in prevailing circumstances has taken place, and therefore, the instant petition is not maintainable.

9. The record has been perused carefully.

10. A perusal of the record shows that following are the relevant factors which are required to be taken into consideration for a decision in the present petition:-

- i) that the former two bail petitions were not decided on merits;
- ii) that the petitioner is already in custody for a period of one year and seven months;
- iii) that the quantity of recovered contraband comes within the ambit of non-commercial quantity, and therefore, the rigors of Section-37 of NDPS Act are not attracted in the present case;
- iv) that with regard to recovery of money, which has been claimed to be drug money by the prosecution, there is no *prima faice* evidence, except the disclosure statement of the accused, thus, there is a question mark with regard to credibility &



admissibility of above-mentioned statement in evidence, as the same was recorded when the co-accused of the petitioner was in police custody. Since pursuant to above-mentioned disclosure statement recovery of any incriminating material or discovery of fact has not taken place, *prima facie* the abovementioned statement appears to be hit by Section-23 of Bharatiya Sakshya Adhiniyam;

- v) that nothing has been left to be recovered from the possession of petitioner;
- vi) that the investigation and trial of this case are not likely to be concluded in near future;
- vii) that the detention of petitioner in the judicial lock-up 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;
- ix) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

11. 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) 3 SCC 22, are 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”.

12. 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 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

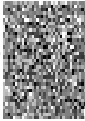


will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

13. 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”.

14. 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 an undertrial prisoner, as mandated by Hon’ble Apex court in ‘Balwinder Singh versus State of Punjab and another’ 2024 SCC Online SC 4354.

15. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession of bail,



and that the present petition deserves to be allowed.

16. 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 abovesaid benefit 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 from disclosing 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 trial Court.

17. It is, however, made clear that any observation made hereinabove is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(SURYA PARTAP SINGH)
JUDGE

15.05.2026
Manoj Bhutani

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