

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

213

CRM-M-36496-2025

Sukhwinder Singh @ Gurpreet Singh @ Gopi

....Petitioner

V/s

State of Punjab

....Respondent

Date of decision: 27.01.2026

Date of Uploading : 27.01.2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. P.S. Sekhon, Senior Advocate with
Ms. Shifali, Advocate for the petitioner.

Mr. Jaypreet Singh, DAG Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of the Bharatiya Nagrik Suraksha Sanhita seeking grant of regular bail to the petitioner in case bearing FIR No.59 dated 13.04.2025, registered for the offences punishable under Sections 21, 22, 27-A and 29 of the NDPS Act and Section 111 of the BNS, 2023 at Police Station Kot Ise Khan, District Moga.

2. As per the prosecution version, on receipt of a specific and credible secret information, ASI Balwinder Singh along with the police party held barricading at bridge drain, Kot Ise Khan. The petitioner along with co-accused Satnam Singh @ Nishan Singh was allegedly apprehended while coming on foot. Upon seeing the police party, both the accused persons allegedly threw polythene packets taken out from their pockets. On checking, 258 grams of heroin was recovered from the polythene allegedly thrown by the petitioner (herein) whereas 195 intoxicant tablets were recovered from the co-accused namely Satnam Singh @ Nishan Singh.

According, the FIR was registered under Sections 21 and 22 of the NDPS Act after sending the ruqa to the police station. The petitioner was arrested on 13.04.2025 and has remained in custody since then. The investigation was conducted and the final report has already stands presented before the Court below.

3. Learned senior counsel for the petitioner has iterated that the petitioner has been falsely implicated into the FIR in question as no contraband has been recovered from the conscious possession of the petitioner. Learned senior counsel has further iterated that the alleged recovery is planted and is the result of previous enmity between the petitioner and the co-accused. Furthermore, the alleged recovery being marginally above the commercial quantity and not from the possession of the petitioner and hence the rigour of Section 37 of the NDPS Act is not attracted in the instant case. Learned senior counsel has further submitted that the FIR is a sheer abuse of process of law and is reflective of the arbitrary and unlawful actions of the police authorities who appear to have planted a false case upon the petitioner. Learned senior counsel has further submitted that mandatory provisions of the NDPS Act have not scrupulously been complied with and, thus, the prosecution case suffers from inherent defects. Learned senior counsel has further submitted that the trial is delayed and the liability thereof cannot be fastened upon the petitioner. According to learned senior counsel, the separate recoveries attributed to the petitioner and the co-accused cannot be clubbed to bring the case within the ambit of heavy commercial quantity. Learned counsel has emphasized that the prosecution case rests solely on suspicion as no contraband has been recovered from the conscious possession of the petitioner. According to learned senior counsel, the petitioner is stated to be

in custody since 13.04.2025 and the trial is not expected to conclude in the near future. In such circumstances, the continued incarceration of the petitioner would serve no useful purpose particularly when the alleged recovery of contraband is not recovered from the conscious possession of the petitioner and hence the rigors of Section 37 of the NDPS do not apply. On the strength of aforesaid submissions, the grant of petition in hand is entreated for.

4. *Per contra*, learned State counsel has vehemently opposed the grant of bail to the petitioner by arguing that the allegations raised against the petitioner are serious in nature. According to learned State counsel, the petitioner is actively involved in the illicit trade of narcotic substances and has an active role in the supply of the contraband in question. Referring to the status report dated 21.09.2025 by way of an affidavit of Jasvarinder Singh, PPS, Deputy Superintendent of Police, Dharamkot, District Moga, learned State counsel submits that the complicity of the petitioner stands established as recovery of 258 grams of heroin has been effected, which is above the non-commercial quantity. Furthermore, the petitioner is involved in multiple criminal cases including NDPS cases and the rigours of Section 37 of the NDPS Act squarely apply. According to learned counsel, the conduct of the petitioner itself indicates consciousness of guilt and the recovery effected is not accidental or planted as alleged. Furthermore, the sequence of events collectively establishes *prima facie* material indicating active participation of the petitioner. Learned State counsel seeks to place on record custody certificate dated 24.01.2026 in Court today, which is taken on record. As per the said custody, the petitioner has suffered incarceration of 09 months and 17 days. In view of the nature of the

allegations, learned State counsel has prayed for the dismissal of the instant petition.

5. I have heard learned counsel for the rival parties and have perused the available record.

6. Before delving further into the merits of the case, it would be apposite to refer herein to the following case-law(s) germane to the matter in issue:

(i) The Hon'ble Supreme Court in the case of ***Union of India versus Namdeo Ashruba Nakade, Special Leave to Appeal (Crl.) No.9792/2025***, has held as under:

“8. This Court is of the view that the issue of substance abuse has emerged as a global public health crisis in the twenty-first century, affecting every country worldwide, as drug trafficking and addiction have become pervasive. The United Nations Office on Drugs and Crime (UNODC) reported in its 2025 World Drug Report that “As at 2023, some 316 million people worldwide had used drugs in the past year, representing an increase over the past decade that outpaces population growth, which indicates a higher prevalence of drug use.”

9. In India, there has been a concerning increase in drug abuse among the youth. Substance abuse not only affects individuals, families, and communities but also undermines various aspects of health including physical, social, political, cultural foundations, and mental well-being. (See: “Bhattacharya S, Menon GS, Garg S, Grover A, Saleem SM, Kushwaha P. The lingering menace of drug abuse among the Indian youth – it’s time for action. Indian J Community Med 2025;50:S9-12, published on 17th April, 2025”)

10. According to many news reports, India faces a clear dilemma between tackling the narcotics crisis systematically or sacrificing its most valuable resource i.e. its young people. The extent of menace of drug abuse has also been highlighted by this Court in the case of Ankush Vipin Kapoor v. National Investigation Agency, (2025) 5 SCC 155 wherein this Court has observed as under:

“9.1 The ills of drug abuse seem to be shadowing the length and breadth of our country with the Central and every State Government fighting against the menace of substance abuse. The debilitating impact of drug trade and drug abuse is an immediate and serious concern for India. As the globe grapples with the menace of escalating Substance Use Disorders (“SUD”) and an ever accessible drug market, the consequences leave a generational Page 75 of 84 imprint on public health and even national security. Article 47 of the Constitution makes it a duty of the State to regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating

drinks and of drugs which are injurious to health. The State has a responsibility to address the root causes of this predicament and develop effective intervention strategies to ensure that India's younger population, which is particularly vulnerable to substance abuse, is protected and saved from such menace. This is particularly because substance abuse is linked to social problems and can contribute to child maltreatment, spousal violence, and even property crime in a family."

11. *In the present case, this Court finds that though the Respondent-accused was in custody for one year four months and charges have not been framed, yet the allegations are serious inasmuch as not only is the recovery much in excess of the commercial quantity but the Respondent-accused allegedly got the cavities ingeniously fabricated below the trailer to conceal the contraband.*

12. *Prima facie this Court is of the opinion that the Respondent-accused is involved in drug trafficking in an organized manner. Consequently, no case for dispensing with mandatory requirement of Section 37 of the NDPS Act is made out in the present matter.*

13. *Moreover, this Court is of the view that as the accused has been charged with offences punishable with ten to twenty years rigorous imprisonment, it cannot be said that the Respondent has been incarcerated for an unreasonably long time."*

ii) Further, the Hon'ble Supreme Court in the case of ***Union of India versus Vigin K. Varghese, Special Leave Petition (Crl.) No(s).7768 of 2025***, has held as under:

"15. At this stage, two features stand out. The High Court's conclusion that there is no material to show that the applicant had any knowledge of the cocaine in the consignment has been arrived at without discussion of the statements of the respondent and circumstances relied upon by the prosecution, including the assertion that the respondent had placed the orders for import, controlled the logistics chain, coordinated with the overseas supplier, and was present when the consignment was opened. The High Court has not examined whether those circumstances, taken at face value for the limited purpose of bail, could prima facie indicate conscious control or involvement sufficient to attract the presumption of culpable mental state indicated under Section 35 of the NDPS Act.

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."

iii) This Court in the case of ***Jaswinder Singh alias Kala versus State of Punjab***, passed in ***CRM-M-33729-2025 (2025:PHHC:089161) = 2025 SCC OnLine P&H4537***; after relying upon the *ratio decidendi* of the judgments of the Hon'ble Supreme Court in *Union of India vs. Thamisharasi & Ors*, 1995(4) SCC 190, *Customs, New Delhi vs. Ahmadalieva Nodira*, 2004 (3) SCC 549, *Union of India vs. Shri Shiv Shanker Kesari*, 2007(4) RCR(Criminal) 186, *Satpal Singh vs. State of Punjab*, 2018 (13) SCC 813, *Narcotics Control Bureau vs. Mohit Aggarwal*, 2022 LiveLaw (SC) 613, *Mohd. Muslim @ Hussain vs. State (NCT of Delhi)* 2023 LiveLaw (SC) 260, *Narcotics Control Bureau vs. Kashif*, 2024 INSC 1045, *Usmanbhai Dawoodbhai Memon vs. State of Gujarat*, 1988(1) RCR(Criminal) 540, *Ranjitsing Brahmajeetsing Sharma vs. State of Maharashtra & Anr.* 2005(5) SCC 294, *Central Bureau of Investigation vs. Vs. Vijay Sai Reddy*, 2013(3) RCR (Criminal) 252, *Municipal Corporation of Delhi vs. M/s Jagan Nath Ashok Kumar and another*, 1987(4) SCC 497, *Gujarat Water Supply and Sewerage Board vs. Unique Erectors (Gujarat) (P) Ltd., and another*, 1987(1) SCC 532, *Collector and others vs. P. Mangamma and others*, 2003(4) SCC 488, *Commissioner of Income-tax, Delhi vs. S. Teja Singh*, 1958 SCC Online SC 30, *Management of Advance Insurance Co. Ltd. Vs. Shri Gurudasmal and others* 1970(1) SCC 633, *Tinsukhia Electric Supply Co. Ltd. Vs. State of Assam*, 1989(3) SCC 709 and *Commissioner of Income Tax vs. Hindustan Bulk Carriers*, 2003(3) SCC 57; has held, thus:

“14. As a sequitur to above-said rumination, the following postulates emerge:

- (I) (i) A bail plea on merits; in respect of an FIR under NDPS Act of 1985 involving offence(s) under Section 19 or Section 24 or

Section 27-A thereof and for offence(s) involving commercial quantity; is essentially required to meet with the rigour(s) of Section 37 of NDPS Act.

(ii) The rigour(s) of Section 37 of NDPS Act do not apply to a bail plea(s) on medical ground(s), interim bail on account of any exigency including the reason of demise of a close family relative etc.

(iii) The rigour(s) of Section 37 of NDPS Act pale into oblivion when bail is sought for on account of long incarceration in view of Article 21 of the Constitution of India i.e. where the bail-applicant has suffered long under-trial custody, the trial is procrastinating and folly thereof is not attributable to such bail-applicant.

II. The twin conditions contained in Section 37(1)(b) of NDPS Act are in addition to the conditions/parameters contained in Cr.P.C./BNSS or any other applicable extant law.

III. The twin conditions contained in Section 37(1)(b) of NDPS Act are cumulative in nature and not alternative i.e. both the conditions are required to be satisfied for a bail-plea to be successful.

IV. For consideration by bail Court of the condition stipulated in Section 37(1)(b)(i) of NDPS Act i.e. “there are reasonable grounds for believing that he is not guilty of such offence”:

(i) The bail Court ought to sift through all relevant material, including case-dairy, exclusively for the limited purpose of adjudicating such bail plea.

(ii) Such consideration, concerning the assessment of guilt or innocence, should not mirror the same degree of scrutiny required for an acquittal of the accused at the final adjudication & culmination of trial.

(iii) Plea(s) of defence by applicant-accused, if any, including material/documents in support thereof, may be looked into by the bail-Court while adjudicating such bail plea.

V. For consideration of the condition stipulated in Section 37(1)(b)(ii) i.e. ‘he is not likely to commit any offence while on bail’:

(i) The word ‘likely’ ought to be interpreted as requiring a demonstrable and substantial probability of re-offending by the bail-applicant, rather than a mere theoretical one, as no Court can predict future conduct of the bail-applicant.

(ii) The entire factual matrix of a given case including the antecedents of the bail-applicant, role ascribed to him, and the nature of offence are required to be delved into. However, the involvement of bail-applicant in another NDPS/other offence cannot ipso facto result in the conclusion of his propensity for committing offence in the future.

(iii) The bail-Court may, at the time of granting bail, impose upon the applicant-accused a condition that he would submit, at such regular time period/interval as may stipulated by the Court granting bail, an affidavit before concerned Special Judge of NDPS Court/Illaq (Jurisdictional) Judicial Magistrate/concerned Police Station, to the effect that he has not been involved in commission of any offence after being released on bail. In the

facts of a given case, imposition of such condition may be considered to be sufficient for satisfaction of condition enumerated in Section 37(1)(b)(ii).

VI. *There is no gainsaying that the nature, mode and extent of exercise of power by a Court; while satisfying itself regarding the conditions stipulated in Section 37 of NDPS Act; shall depend upon the judicial discretion exercised by such Court in the facts and circumstances of a given case. No exhaustive guidelines can possibly be laid down as to what would constitute parameters for satisfaction of requirement under Section 37 (ibid) as every case has its own unique facts/circumstances. Making such an attempt is nothing but a utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such matter.”*

7. The grant of bail falls within the discretionary domain of the court; however, such discretion must be exercised in a judicious and principled manner, ensuring it aligns with established legal precedents and the interests of justice. While considering a bail application, the Court must evaluate factors such as the existence of *prima facie* evidence implicating the accused, the nature and gravity of the alleged offence, and the severity of the likely sentence upon conviction. The Court must also assess the likelihood of the accused absconding or evading the due process of law, the probability of the offence being repeated and any reasonable apprehension of the accused tampering with evidence or influencing witnesses. Additionally, the character, antecedents, financial means, societal standing and overall conduct of the accused play a crucial role. Furthermore, the Court must weigh the potential danger of bail undermining the administration of justice or thwarting its due course. A profitable reference in this regard is made to the judgment passed by the Hon’ble Supreme Court titled as ***State through C.B.I. vs. Amaramani Tripathi, 2005 AIR Supreme Court 3490***, relevant whereof reads as under:

14. *It is well settled that the matters to be considered in an application for bail are (i)whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character,*

behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see **Prahlad Singh Bhati v. NCT, Delhi, 2001(2) RCR (Criminal) 377 (SC) :2001(4) SCC 280** and **Gurcharan Singh v. State (Delhi Administration), AIR 1978 Supreme Court 179**). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in **Kalyan Chandra Sarkar v. Rajesh Ranjan, 2004(2) RCR (Criminal) 254 (SC) :2004(7) SCC 528** : "The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

- a. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.
- b. Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.
- c. Prima facie satisfaction of the **court** in support of the charge. (see **Ram Govind Upadhyay v. Sudarshan Singh, 2002(2) RCR (Criminal) 250 (SC) : 2002(3) SCC 598** and **Puran v. Ram Bilas, 2001(2) RCR (Criminal) 801 (SC) : 2001(6) SCC 338**."

This Court also in specific terms held that :

"the condition laid down under section 437(1)(i) is sine qua non for granting bail even under section 439 of the Code. In the impugned order it is noticed that the High **Court** has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by

itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail."

*In **Panchanan Mishra v. Digambar Mishra**, 2005(1) Apex Criminal 319 : 2005(1) RCR(Criminal) 712 (SC) : 2005(3) SCC 143, this Court observed :*

"The object underlying the cancellation of bail is to protect the fair trial and secure justice being done to the society by preventing the accused who is set at liberty by the bail order from tampering with the evidence in the heinous crime..... It hardly requires to be stated that once a person is released on bail in serious criminal cases where the punishment is quite stringent and deterrent, the accused in order to get away from the clutches of the same indulge in various activities like tampering with the prosecution witnesses, threatening the family members of the deceased victim and also create problems of law and order situation."

8. Indubitably, the petitioner and the co-accused were found together at the same place and time. At the outset, it is to be noted that commercial quantity of heroin has been recovered in the present case. It is not in dispute that the alleged recovery from the petitioner is 258 grams of heroin, which is greater than non-commercial quantity and, therefore, attracts the rigours of Section 37 of the NDPS Act. At the stage of consideration of regular bail, the Court is not expected to conduct a detailed examination of evidence. It is well settled that Section 37 of NDPS Act. mandates that the regular bail can be granted only if the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty and he is not likely to commit any offence while on bail. At this stage, this Court is not expected to appreciate the evidence in detail. The contentions regarding conscious possession, weighing of contraband, joining of independent witnesses, alleged enmity and police vendetta are matters of trial and can only be ratiocinated upon after evidence is led. Furthermore, the argument that recovery was effected from a polythene allegedly thrown

conscious possession. The plea regarding non-compliance of mandatory provisions is a mixed question of law and fact, which cannot be conclusively determined at the stage of bail. The petitioner is also stated to be involved in other NDPS cases and criminal cases under the IPC, which *prima facie* reflects his criminal antecedent and weighed heavy against the petitioner. Merely because the investigation is complete or that the trial may take time, cannot be a ground for regular bail in cases under Section 37 NDPS Act. The argument that Section 27-A of the NDPS Act has been wrongly invoked cannot be accepted at this stage. The material collected by the investigating agency, including the secret information and the recovery, *prima facie* suggests that the petitioner was involved of guilty of offence under the NDPS Act. In view of the statutory embargo under Section 37 of the NDPS Act, this Court is required to record a satisfaction that there are reasonable grounds for believing that the petitioner is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. From the material available on record, this Court is unable to record such satisfaction.

9. In the considered opinion of this Court, the Court must primarily see whether there exists reasonable material connecting the accused to the offence. In the considered opinion of this Court, the allegations as also the manner of recovery disentitled the petitioner to the discretionary relief of regular bail. Furthermore, no accentuating circumstances have been made which may *prima facie* constitute a compelling ground for the grant of regular bail to the petitioner, especially in light of the gravity of the allegations and the evidence placed on record. The Court cannot accept the plea of the petitioner of false implication merely based on assertions without evidence. The argument of the learned

counsel that only money has been recovered from the petitioner cannot be accepted at this stage as the surrounding circumstances of the incident raise doubts that can only be clarified during the course of trial. The petitioner has been in custody since 26.05.2025 but custody, by itself, is not a ground for bail when the allegations are serious and investigation is still in progress. Releasing the petitioner at this stage may affect the investigation especially when the role of the co-accused and any possible connection between the two is still being examined.

10. In view of the seriousness of the allegations coupled with the nature of the offence, the role attributed to the petitioner & the statutory bar under the NDPS Act, this Court is of the considered opinion that the petitioner is not entitled to the concession of regular bail in the factual *milieu* of the case in hand.

11. In view of the *prevenient ratiocination*, it is ordained thus:

- (i) The present petition is devoid of merit and is hereby dismissed.
- (ii) Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.
- (iii) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

January 27, 2026
Ajay

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

It is not in dispute that the alleged recovery from the petitioner is 258 grams of heroin, which is greater than non-commercial quantity and therefore attracts the rigours of Section 37 of the NDPS Act. Section 37 mandates that bail can be granted only if the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty, and he is not likely to commit any offence while on bail. At this stage, this Court is not expected to conduct a mini trial or appreciate the evidence in detail. The contentions regarding conscious possession, weighing of contraband, joining of independent witnesses, alleged enmity and police vendetta are matters of trial and can only be adjudicated after evidence is led. The argument that recovery was effected from a polythene allegedly thrown by the petitioner does not, at this stage, negate the prosecution case of conscious possession, especially when specific secret information preceded the apprehension. The plea regarding non-compliance of mandatory provisions is a mixed question of law and fact, which cannot be conclusively determined at the stage of bail. The petitioner is also involved in other NDPS cases and serious criminal cases under IPC, which prima facie reflects a criminal antecedent, thereby disentitling him from the discretionary relief of bail. Merely because the investigation is complete or that the trial may take time, cannot be a ground for bail in cases governed by Section 37 NDPS Act. The resolution of the Gram Panchayat and allegations against police officials, even if assumed to be true, do not satisfy the twin conditions of Section 37. In view of the serious nature of allegations, quantity of contraband recovered, criminal antecedents of the petitioner, and statutory bar under Section 37 of the NDPS Act, this Court is not satisfied that the petitioner fulfills the

mandatory conditions for grant of bail. Consequently, the present petition
for regular bail is dismissed.