

2026:PHHC:038073



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

109

CRM-M-38523-2025 (O&M)
Date of decision : 16.03.2026

Kulbir Singh @ Balli

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rishu Mahajan, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the fourth petition that has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to him in case bearing FIR No. 123 dated 18.05.2024, registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Gharinda, District Amritsar (Rural). His previous petitions were dismissed as withdrawn.

2. Brief facts of the case relevant for the disposal of the present petition are that on 18.05.2024, co-accused Kirpal Singh was apprehended by a police party and recovery of 598 grams of heroin was effected from him. Since he could not produce any valid license or permit to keep in his possession the recovered contraband, he was formally arrested at the spot. Upon interrogation, he disclosed that the recovered contraband was purchased by him from the present petitioner. On the basis of the same, the petitioner was nominated in this case and arrested on 22.05.2024.

2026:PHHC:038073



After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offence.

3. It is argued by learned counsel for the petitioner that he was neither found at the spot nor was named in the FIR. He has been nominated in this case on the basis of the disclosure statement suffered by the co-accused, which cannot be considered to be admissible in evidence. No subsequent recovery has been effected from him. There is nothing on record to show that the petitioner was involved in the subject crime in any manner with the co-accused. Even otherwise, investigation has since been completed and challan has been filed. Conclusion of trial is likely to take considerable time. His involvement in other cases cannot be made a ground for denying him the benefit of bail in the given circumstances. The petitioner is in custody since long. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be released on regular bail.

4. Custody certificate has been filed by the respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations levelled against the petitioner as well as his criminal antecedents and the fact that the rigors of Section 37 of the NDPS Act would be attracted in this case, the petition does not deserve to be allowed.

5. This Court has heard the rival submissions.

6. The well settled proposition of law is that the Court while considering an application for grant of bail has to keep certain factors in mind, such as, whether there is a prima facie case or reasonable ground to believe that

2026:PHHC:038073



the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of accused absconding or fleeing, if released on bail and reasonable apprehension of the witnesses being threatened. The period of incarceration is also relevant fact that is to be considered. It is also unequivocally established that, to be granted bail, the accused charged with offence under the provisions of NDPS Act must fulfill the conditions stipulated in Section 37 of the Act. A contention has been raised that the rigors of Section 37 of the NDPS Act are attracted in the present case as there is recovery of commercial quantity of contraband.

7. The case of the prosecution is that the name of the petitioner was disclosed by the above named co-accused, from whom recovery of commercial quantity of the contraband was effected. As per his disclosure statement, he had sourced the contraband from the petitioner. In ***Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1***, it was observed by Hon'ble Apex Court that the disclosure statements made under Section 67 of NDPS Act, are inadmissible in evidence unless corroborated by independent material. While the veracity of the disclosure statement against the petitioner will be tested during the course of trial, however, at this stage, it cannot be ignored that no recovery was ever effected from the petitioner. The petitioner was arrested on 22.05.2024. There is nothing on record, at this stage, to connect the petitioner either with the subject crime or to show that he was connected with the co-accused in any manner at the relevant time. It is also required to be noted that every day spent by an accused in custody provides a new cause of action for filing a bail application under certain circumstances. This principle is a part of the broader

2026:PHHC:038073



approach emphasizing that law prefers bail over jail, aiming to balance the right of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since settled proposition of law is that detention prior to trial should not become punitive. Investigation has been completed and challan has been filed. Conclusion of trial would take considerable time. Pendency of other cases against the petitioner cannot be considered to be a ground for denying him benefit of bail in given circumstances. Keeping in view the aforesaid facts and circumstances, this Court is of the considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

16.03.2026
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No