

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CRM-M No.42674 of 2025 (O&M)

Date of Decision: 17.02.2026

Harjinder Singh @ Reetha

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

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

Mr. Rohit Bansal, Sr. DAG Punjab.

SURYA PARTAP SINGH, J. (Oral):

This petition, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023, is the first petition, filed by the petitioner for grant of bail. The above mentioned petition pertains to a case arising out of FIR No.99 dated 08.08.2022, under Sections 21-B, 22 and 29 of Narcotic Drugs & Psychotropic Substances Act, 1985, hereinafter being referred to as 'NDPS Act', Police Station Mehatpur, District Jalandhar (Rural).

2. Briefly stating the facts emerging from record are that on 08.08.2022 when a police party headed by 'S.I. Bhupinder Singh' was deputed for patrolling duty, on the basis of suspicion it intercepted a car. As per prosecution case 'Des Raj @ Desa' and 'Jagdish Singh @ Disha' were travelling in the above mentioned car and from the above mentioned car 13 injections of Buprenorphine (2 ml each, total 26 grams) were recovered.

3. It is case of the prosecution that on recovery of above mentioned contraband requisite formalities with regard to seizure and sealing of contraband,



slapping of FIR and formal arrest of petitioner were performed and further investigation taken up. According to prosecution that during the course of investigation when the accused 'Des Raj' and 'Jagdish' were interrogated they suffered their respective disclosure statements wherein they nominated the petitioner as the person who had supplied contraband to them.

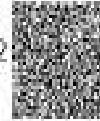
4. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record. No formal reply has been filed by the State. However, the learned State counsel has orally opposed the present petition.

5. Heard.

6. With regard to facts of the instant case the observation in the case of 'Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence' 2018(3) SCC Online SC 757, are relevant, wherein it has been held by the Hon'ble Supreme Court of India that the disclosure statement of co-accused is inadmissible against another accused, as the disclosure statement is not a substantive piece of evidence against other accused.

7. Similar principle has been laid down by the Hon'ble Supreme Court of India in the case of 'Preet Kamal Vs. State of Punjab', 2018(4) RCR (Criminal) 938, wherein it has been held that the disclosure statement of an accused can be used only against the person making the same, and not against the co-accused.

8. In 'Tofan Singh Vs. State of Tamil Nadu', 2021(4) SCC 1 also, it has been observed by the Hon'ble Supreme Court of India that confessional statement of accused recorded under Section 67 of NDPS Act cannot be



admitted in evidence, as a confession.

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 the purpose of decision of present petition:-

- i) that the petitioner is already in custody for a period of more than 2 months;
- ii) that nothing is left to be recovered from the possession of petitioner;
- iii) that the petitioner is being prosecuted only on the basis of disclosure statement suffered by his co-accused;
- iv) that the only evidence collected by the Investigating Agency qua the petitioner is the disclosure statement of his co-accused, which was made by the co-accused of the petitioner when he was already in police custody. Thus, there is a question mark with regard to admissibility of above mentioned disclosure statement in evidence;
- v) that the trial is not likely to be concluded in near future;
- vi) that detention of petitioner in judicial lock-up is not likely to serve any purpose;
- vii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;



viii) 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 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.

(SURYA PARTAP SINGH)
JUDGE

17.02.2026
Manoj Bhutani

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