



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

225

CRM-M No.43321 of 2025 (O&M)
Date of Decision: 13.01.2026

Nishan Singh

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Karandeep Sidhu, Advocate for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 21(C), of the Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter being referred to as “the NDPS Act” [Section 29 of the NDPS Act, added later on vide GD No.36 dated 24.05.2025], the FIR No. 0085 dated 22.05.2025 has been lodged in Police Station Sadar Sri Muktsar Sahib, District Muktsar Sahib. The petitioner has been arrested in the above mentioned case as an accused. Since the petitioner is in custody, he has filed the present petition for the benefit of bail. This is Ist petition for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Briefly stating the facts emerging from record are that the FIR of this came into being at the instance of ‘ASI Balwinder Singh’. It was reported by the above named ASI that on the basis of tip-off given an informer when a car was intercepted by a police party headed by him on 22.05.2025 at the



intersection of road from Kotli Devan-Udekaran and Muktsar Sahib-Bura Gujar, had intercepted a car. According to above named ASI, the occupants of the abovesaid car disclosed their names as 'Manjinder Singh', 'Gursewak Singh' and 'Tajveer Singh and from the abovesaid car 270 grams of 'heroin' was recovered.

3. According to prosecution, pursuant to above mentioned recovery the formal FIR of this case was lodged and the investigation taken up. As per prosecution during the course of investigation when the above named accused were interrogated they suffered a disclosure statement wherein they nominated the present petitioner. The prosecution has further alleged that pursuant to above mentioned disclosure statement when the petitioner was arrested from his possession 8 grams of heroin was recovered.

4. Notice of motion.

5. Since advance notice has already been served upon the State, Mr. Rohit Bansal, Sr. DAG, Punjab, appears on behalf of respondent-State, and waives service.

6. Learned State Counsel has filed custody certificate of the petitioner and reply by way of affidavit of Deputy Superintendent of Police, Baghapurana, District Moga. The same be taken on record.

7. Heard.

8. It has been contended on behalf of the petitioner that the petitioner has been falsely implicated in the present case and that nothing was recovered from the possession of petitioner. According to learned counsel for the



petitioner, the only evidence initially collected against the petitioner was confessional statement of co-accused and that the same is not admissible in evidence in the backdrop of the fact that it was recorded when the maker of it was already in police custody.

9. In addition to above, the learned counsel for the petitioner has also argued that otherwise also the recovery of contraband from the possession of petitioner is merely 8 grams of 'heroin' which is marginally above the upper threshold meant for small quantity, and only a friction of the lower limit prescribed for commercial quantity of 'heroin'. According to learned counsel for the petitioner the petitioner has already suffered a lot of incarceration for being in custody for a period of more than 7 ½ months and that nothing is left to be recovered from the possession of petitioner, and therefore, the petitioner is entitled for the benefit of bail.

10. Per contra, the learned State counsel while referring to the contents of reply filed by the State has come forward with an argument that in the present case the confessional statement of the petitioner is admissible in evidence in view of the fact that the above mentioned disclosure statement led to recovery of contraband from the possession of petitioner. The learned State counsel has also argued that in the present case the petitioner cannot claim that he has suffered a prolonged incarceration without proper trial, as the total period of custody of the petitioner is approximately 7 ½ months.

11. 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.

12. 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.

13. 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.

14. The record has been perused carefully.

15. 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 quantity of contraband recovered from the possession of petitioner i.e. 8 grams 'heroin' is marginally above the upper limit prescribed for commercial quantity (i.e. 5 grams), thus the quantity of recovered contraband comes within the ambit of non-commercial quantity;
- ii) that nothing is left to be recovered from the possession of petitioner;



- iii) that the petitioner has already suffered sufficient incarceration for being in custody for a period of 7 and ½ months;
- iv) that the trial is not likely to be concluded in near future;
- v) that with regard to recovery of 270 grams of 'heroin' *prima facie* nothing can be attributed to the petitioner as there is no link evidence;
- vi) that detention of the 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 is likely to tamper with the evidence, or influence the witnesses;
- viii) that there is nothing on record to show that if petitioner is released on bail, he will not participate/co-operate in the trial.

16. 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”.

17. 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 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”.



18. 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”.

19. Therefore, 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.

20. 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.

21. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**, and subject to the conditions mentioned below, the petitioner is ordered to be released on bail on his



furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court:-

- 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 the trial Court.

(SURYA PARTAP SINGH)
JUDGE

13.01.2026
Manoj Bhutani

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