

2026:PHHC:024015



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

217

CRM-M-45653-2025 (O&M)
Date of decision : 17.02.2026

Sunny

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Pranav Goyal, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in FIR No. 0090 dated 13.04.2025, registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) [Section 29 of the NDPS Act added later on] at Police Station City South, District Moga.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 13.04.2025, on the basis of a secret information, the petitioner was apprehended by a police party headed by ASI Jarnail Singh and recovery of 250 grams of heroin was effected from him. The petitioner was formally arrested at the spot. He suffered disclosure statement admitting his

2026:PHHC:024015



involvement in the subject crime and also named one Sukhwinder Singh as his associate, who was also nominated in this case as accused. Investigation now stands completed and challan has been filed.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. A false recovery was planted upon him. Even otherwise, as per Section 2(vii-a) of the NDPS Act, the commercial quantity for heroin would be any quantity greater than 250 grams. However, as per own case of the prosecution, the petitioner was found to be in possession of 250 grams of heroin including the weight of the transparent wax polythene. Hence, the quantity of the recovered contraband would fall under non-commercial quantity. It is further argued that a perusal of the screenshots of the CCTV footage would reveal that the petitioner was picked up by the police party when he was coming out of his shop with his friend. The petitioner has clean antecedents. He is in custody since 13.04.2025. Investigation has since been completed and challan has been filed. Conclusion of trial is likely to take considerable time. 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. Status report along with the custody certificate of the petitioner 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, he is not entitled to get benefit of bail as Section 37 of the NDPS Act would be attracted in this case. It is, thus, argued that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

2026:PHHC:024015



6. Admittedly, the quantity of the recovered heroin including polythene bag was found to be 250 grams, which clearly demonstrates that the exact weight of the recovered contraband was not even 250 grams. Section 2(vii-a) of the NDPS Act, which defines commercial quantity, reads as under: -

“Section 2 (vii-a): “commercial quantity”, in relation to narcotic drugs and psychotropic substances, means any quantity **greater than** the quantity specified by the Central Government by notification in the Official Gazette.”

7. The Government had issued a notification bearing No. S.O. 1055 (E), dated 19.10.2001, which was published in the Gazette of India, specifying the small quantity and commercial quantity of different types of narcotic and psychotropic substances in a tabulated form. The ‘Heroin’ finds mention at Sr. No. 56 of this table and the quantity specified therein to determine the commercial quantity in relation to heroin is mentioned as 250 grams. Hence, on a conjoint reading of Section 2(vii-a) of the NDPS Act as well as the contents of this notification with regard to heroin, it can conclusively be stated that any quantity in relation to heroin, which is greater than 250 grams, shall fall under commercial quantity. However, in the present case, the quantity of the recovered heroin is admittedly 250 grams, that too including the weight of the polythene bag. Hence, it can be said that the total quantity of the recovered contraband would not fall under commercial quantity and the rigors of Section 37 of the NDPS Act would not be attracted. The petitioner has clean antecedents. He is in custody since 13.04.2025. Investigation has since been completed. Challan has been filed. Conclusion of trial would obviously take considerable time. Keeping in view the aforesaid facts and circumstances, this

2026:PHHC:024015



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.

17.02.2026

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No