

2026:PHHC:021248



239 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45730-2025
Date of Decision: 11.02.2026

Gurdial Singh ...Petitioner

Versus

State of Punjab ...Respondents

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Ms. Bhupinder Kaur, Advocate for the petitioner.

Mr. Jatin Kundu, AAG, Punjab.

AARADHNA SAWHNEY, J. (ORAL)

1. Petitioner, co-accused, in case FIR No.277 dated 12.10.2022 registered against him for commission of offences punishable under Sections 21, 22 & 29 of the NDPS Act, at Police Station Sultanpur Lodhi, District Kapurthala, has prayed for grant of bail.

2. Relevant facts as emerging from documents on record be noticed hereinbelow:-

“As per case set up by the prosecution on 12.10.2022, 1000 intoxicant tablets (101 grams) were recovered from the illegal possession of co-accused Nirmal Singh @ Bagga. After statutory formalities were completed at the site, aforesaid Nirmal Singh was arrested. During the interrogation, he suffered a disclosure statement, pursuant to which name of co-accused Jaswant Singh was cropped up. It is further the case of the prosecution that from the conscious possession of co-accused Jaswant Singh, 270 gram of ‘Heroin’ was recovered on 29.10.2022. After he was formally

arrested, during the course of interrogation, name of the present petitioner namely Gurdial Singh cropped up. Though, admittedly nothing was recovered from the possession of the present petitioner, who was arrested on 26.06.2025.

3. Petitioner-accused, moved an application for grant of bail before the learned Ld. Additional Sessions Judge, Kapurthala. The same was dismissed vide order dated 13.08.2025. Aggrieved of which, present petition has been filed.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. He is on better footing than co-accused Jaswant Singh, who was named in the disclosure statement of co-accused Nirmal Singh @ Bagga, arrested at the site and from whose (Jaswant Singh) possession 270 grams of 'Heroin' was recovered. Admittedly, nothing was recovered at the instance of present petitioner. The said disclosure statement as per learned counsel, in the absence of any recovery is not admissible in evidence.

It is further the submission of learned counsel that though petitioner is involved in two other criminal cases but that by itself cannot be a ground to deny the concession of bail sought for. In support of his contention, learned counsel places reliance upon **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012(1) RCR (Criminal) 586.**

It is also the contention of learned counsel that investigations in the present case are complete, for challan has been filed but none of the prosecution witnesses have been examined so far and thus, the likelihood of completion of trial in near future is quite remote. When viewed in the light of factual scenario of the case and the submissions advanced hereinabove, further incarceration of the petitioner would not serve any useful purpose and would

also be violative of Fundamental rights guaranteed under Article 21 of the Constitution of India, including right to speedy trial. Primarily with this submission, prayer for allowing the petition has been made.

5. *Per contra*, learned State counsel while referring to the status report dated 27.10.2025 filed by way of affidavit of Mr. Hargurdev Singh, PPS, Deputy Superintendent of Police, Sub-Division Sultanpur Lodhi, Kapurthala, has opposed the request for grant of bail on the ground that name of the petitioner cropped up in the disclosure statement of co-accused Jaswant Singh. Though, he admits that nothing was recovered from the conscious possession of the petitioner. Status report is also silent as to whether there was any call detail records/bank transactions between petitioner and co-accused Nirmal Singh @ Bagga, who was arrested at the site. It is also the contention of the learned State counsel that recovery falls within the 'Commercial Quantity'. In view thereof, rigors of Section 37 of NDPS Act are attracted which bar the grant of bail, unless the twin conditions prescribed in the provision are satisfied. That apart learned State counsel contends that in view of the past antecedents of the petitioner, who is involved in two other cases (one of which is of like nature), if lenient view is taken in his(P) favour, the likelihood of him indulging in similar offence and fleeing from process of justice cannot be ruled out. Drug menace being on the rise needs to be dealt strictly. Dismissal of the petition has thus been prayed for.

6. I have heard the learned counsel for the parties and have gone through the documents on record.

7. Before proceeding to discuss the rival contentions, it would be appropriate to refer to judgment of Hon'ble Supreme Court wherein case titled

as ***Shambu Lal Gurjar Vs. State of Rajasthan, SLP Criminal 16671 of 2024***, decided on 23.04.2024, it was held as under:-

“The allegations against the petitioner is that there is a recovery of 60 kgs poppy husk/straw (contraband article) from him and prior to this incident, he has three criminal antecedents relating to the NDPS Act registered in the year 2019, 2021 and 2022. The third bail application of the petitioner was dismissed by the High Court. He has already undergone about 1 year and 8 months in jail.

Heard learned counsel for the petitioner and the respondent State.

Considering the fact that the contraband article is a poppy straw although he has three criminal antecedents but since he has been in jail for the last 1 year and 8 months, we are of the opinion that a case of bail is made out for the petitioner.”

Further in ***Chitta Bishwas @ Shubash Vs. State of West Bengal Law Finder Doc Id# 1938935***, considering the duration of custody and progress in trial, Hon’ble Supreme Court granted bail to an accused/appellant who was found in possession of 46 bottles of PHENSYDRYL Cough Syrup containing codeine mixture above commercial quantity.

In ***Md Aliul Islam @ Aliul Islam @ Aliul Vs. State of West Bengal Law Finder Doc Id# 2734487***, Hon’ble Supreme Court granted bail to an accused, involved in a case under Section 21(c)/27A of NDPS, considering custody period and similarity with other accused, whose bail had been allowed.

Similarly in ***Devrata Mondal Vs. State of West Bengal Law Doc Finder Id # 2734476***, on the ground of prolonged custody and parity with other accused, co-accused Davrata, who was allegedly caught keeping in his possession 290 bottles of PHENSYDRYL Cough Syrup (Commercial quantity) was granted the concession of bail by the Hon’ble Supreme Court.

In *Santarul Islam Vs. State of West Bengal, Law Finder Doc Id# 2735329*, Hon'ble Supreme Court granted bail to the petitioner who was also caught keeping in his illegal possession of PHENSYDRYL Cough Syrup (on the ground of prolonged custody and nature of contraband).

The evidentiary value of the testimonies and other evidence will be seen by the learned trial Court during the course of the trial in accordance with established principles of law. However, while adjudicating a plea for regular bail, this Court cannot remain oblivious to the circumstances under which the petitioner has been arraigned or implicated, including the nature of the allegations, the evidence linking the petitioner to the offence as well as the specific role attributed to the petitioner in the commission of the alleged offence. Mere presence of past criminal antecedents of the petitioner cannot be the sole consideration to decline the bail.

8. Having gone through the aforesaid judgments, it is clear that Constitutional liberty must override the statutory embargo. Guided solely by the said principle and in the light of the facts that have been brought on record, the Court is of the opinion that no useful purpose would be served by further detention of the petitioner, as the same, without the prospect of trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial and would, thus, also be against the principle of "Bail is a general rule and incarceration is an exception" as held by Hon'ble Supreme Court in **Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131**.

Resultantly, petitioner is granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

- (i) The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) The petitioner will not tamper with the evidence during the trial.*
- (iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- (vii) The petitioner shall not in any manner misuse his liberty.*
- (viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.*
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.*

9. Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

11.02.2026
Parveen kumar

(AARADHNA SAWHNEY)
JUDGE

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