

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

120

CRM-M-48738-2025 (O&M)
Date of decision : 23.02.2026

Mohinder Partap @Manish @Mahendra Partap

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. M.S. Saini, Advocate for the petitioner.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

SURYA PARTAP SINGH, J. (oral)

This petition for bail, which is second petition filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed with regard to a case arising out of FIR No.155 dated 12.07.2023, for the commission of offence punishable under Section 22 of Narcotic Drugs and Psychotropic Substances Act, hereinafter being referred to as 'NDPS Act', Police Station Mahilpur, District Hoshiarpur.

2. The abovementioned FIR came into being when a chance recovery of contraband had taken place from the possession of petitioner. As per prosecution, when a police party headed by 'ASI Ram Lal' was on patrolling duty, on the basis of suspicion one biker was checked and on checking he was found in possession of 130 strips of Alprazolam, each strip containing 10 intoxicating tablets.

3. It is the case of the prosecution that pursuant to abovementioned contraband, necessary formalities with regard to seizure &



sealing of contraband, lodging of FIR, and formal arrest of the accused were performed, and further investigation taken up.

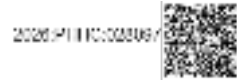
4. **Notice of motion.**

5. Mr. Eklavya Darshi, Deputy Advocate General, Punjab appears on behalf of respondent-State. Hence service of notice upon the State is hereby dispensed with. 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.

6. Heard.

7. It has been contended by learned counsel for the petitioner that in the present case, although there are allegations that the petitioner was found in possession of 'commercial quantity' of contraband, i.e. 166.4 gms of Alprazolam, but the procedure adopted by the Investigating Agency for testing of samples by Forensic Science Laboratory was defective and therefore the same cannot be treated as per law.

8. As per learned counsel for the petitioner, the report of FSL shows that the batch number, date of manufacturing and date of expiry were not mentioned on the strips, allegedly recovered from the possession of petitioner, and that only two strips (20 tablets) were sent to FSL for examination. While referring to the principles of law laid down by the Division Bench of this Court in CRA-S-5190-SB of 2015 titled as 'Deepak Kumar V/s State of Punjab', it has been contended by learned counsel for the petitioner that in the absence of manufacturing details such as batch



number, date of manufacturing and date of expiry, the entire recovered tablets should have been sent to the FSL for testing, but in the present case it has not been done and therefore, the presumption arises that only those two strips, containing 20 tablets only, were containing, and there cannot be any presumption with regard to remaining 128 strips.

9. In addition to above, the learned counsel for the petitioner has also contended that the petitioner is already in custody for a period of almost one year and five months, and that the trial is taking place at a slow pace, as out of 12, only two prosecution witnesses have been completely examined and two in-part.

10. The learned State Counsel has controverted the abovementioned arguments. According to learned State Counsel, in the present case the seizure memo itself shows that the recovered tablets were containing the name of salt, i.e. Alprazolam, and that out of those 130 strips, 02 strips were randomly selected and sent to FSL for testing. While claiming that the recovered contraband from the possession of petitioner comes within the ambit of 'commercial quantity', it has been argued by learned State Counsel that unless the twin conditions enshrined under Section-37 of NDPS Act are satisfied, the benefit of bail should not be accorded to the petitioner.

11. The record has been perused carefully.

12. In view of the fact that as per FSL report, the batch number, manufacturing date and expiry date were not mentioned on the strips, as per principles laid down in the case of Deepak Kumar (*supra*), unless the entire recovered tablets would have been sent to the FSL, it cannot be inferred that



all the 130 strips recovered in this case were identical and containing salt Alprazolam.

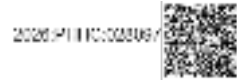
13. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration for a decision:-

- i) that the petitioner is already in custody for a period of almost one year and five months;
- ii) that there is a question mark with regard to claim of the prosecution that the contraband recovered in this case comes within the ambit of 'commercial quantity';
- iii) that the petitioner has no criminal antecedents;
- iv) that the former bail petition filed by the petitioner was not decided on merits. Rather, it was dismissed as withdrawn more than one year back;
- v) that nothing has been left to be recovered from the possession of petitioner;
- vi) that the trial is not likely to be concluded in near future, as out of 12, only two prosecution witnesses have been completely examined and two in-part;
- vii) that detention of the petitioner in judicial lockup is not likely to serve any purpose;
- viii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and
- ix) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.



14. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of "Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131, 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".

15. The principles laid down by the Hon'ble the Supreme Court of India in the case of 'Satender Kumar Antil Vs. Central Bureau of Investigation and Another', (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”.

16. 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”.

17. 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.

18. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

19. 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 abovementioned concession 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 to disclose 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

23.02.2026

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No