

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:008807



244

CRM-M-48608-2025 (O&M)

Date of decision:21.01.2026

Sukhjit Singh @ Sukha

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ruhani Chadha, Advocate for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. The instant petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") for grant of regular bail in case arising out of FIR No.212, dated 25.12.2024 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS") (offence under Section 29 of the NDPS Act was added lateron), at Police Station Kot Ise Khan, District Moga.

2. As per the allegations, on 25.12.2024, on receipt of secret information to the effect that accused Lakhwinder Singh @ Lakhu and Arshdeep Singh @ Kalu were involved in the business of sale of heroin and could be apprehended on that very day with huge quantity of the contraband as they were to supply the same to some of their customers, a raiding party was immediately formed. *Ruqa* was sent to the police. The raiding party

reached at the informed place and apprehended the above mentioned accused, who were found to be in conscious physical possession of 500 grams of heroin, which was packed in a plastic polythene. The recovered contraband was taken into custody. On interrogation, accused Arshdeep Singh @ Kalu has suffered disclosure statement to the effect that the petitioner, who was his maternal uncle and was confined in jail in connection with some other matter, had come to Court complex, Moga, during the period between 30.11.2024 to 02.12.2024 and had informed him that he had got smuggled 500 grams of heroin from one person which was lying concealed in a particular point at link road to village Mastewala-Dholewal and then as per directions of the petitioner, he along with co-accused Lakhwinder Singh @ Lakhu had taken out the same from the informed place. In pursuance of this disclosure statement, the present petitioner was nominated as an accused. Since he was in custody in some other case, his presence was secured by way of issuance of production warrants. He was formally arrested on 03.02.2025. Investigation now stands completed.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of disclosure statement of the accused, which cannot be considered to be admissible in evidence. He is in custody since long. The trial will take considerable time to conclude. His further incarceration would not serve any useful purpose. It is, therefore, argued that he deserves to be released on bail.

4. Per contra, while placing on record custody certificate and status report, learned State Counsel has argued that there are serious allegations

against the petitioner, who is a man of criminal antecedents, being involved in several other cases. There are chances of his absconding or committing similar offences, if extended benefit of bail. It is, therefore, argued that he does not deserve to be released on bail.

5. This Court has heard rival submissions made by both the parties.

6. The well settled proposition of law is that the Court while considering an application for grant of bail has to keep certain factors in mind, such as, whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of accused absconding or fleeing, if released on bail and reasonable apprehension of the witnesses being threatened. The period of incarceration is also relevant fact that is to be considered. It is also unequivocally established that, to be granted bail, the accused charged with offence under the provisions of NDPS Act must fulfill the conditions stipulated in Section 37 of the Act.

7. The case of the prosecution is that the name of the petitioner was disclosed by the co-accused-Arshdeep Singh @ Kalu, from whom recovery of contraband has been effected. As per his disclosure statement, he on instructions of the petitioner, has taken the contraband from the informed place. In **Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1**, it was observed by Hon'ble Apex Court that the disclosure statements made under Section 67 of NDPS Act, are inadmissible in evidence unless corroborated

by independent material. While the veracity of the disclosure statement against the petitioner will be tested during the course of trial, however, at this stage, it cannot be ignored that no recovery was ever effected from the petitioner. In view of the above discussion, this Court is of the opinion that the bar under Section 37 of the NDPS Act does not come in the way of granting bail to the petitioner. The petitioner is in custody since 03.02.2025. In such circumstances, the trial is likely to take long time to conclude. The object of jail is to secure the appearance of the accused during the trial and it can neither be punitive nor be preventive. The deprivation of liberty has been considered as a punishment. As such, Court is of the considered opinion that a case for release of the petitioner on bail is made out. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned and on the following conditions:-

- (i) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case in any manner whatsoever.
- (ii) he shall not leave the country under any circumstance without permission of the learned trial Court.
- (iii) he shall appear before the learned

trial Court as and when directed.

(iv) he shall provide his address where he would be residing after release and shall not change the same without informing the concerned IO/SHO.

(v) the petitioner shall upon his release give his mobile phone number to concerned IO/SHO and shall keep his mobile phone switch on all times.

8. In the event of there being any FIR/complaint lodged against the petitioner, it shall be open to the respondent-State to seek redressal by filing an application seeking cancellation of bail.

9. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and shall not influence the outcome of the trial.

10. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

21.01.2026

harjeet

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No