

CRM-M-53703-2025 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM-M-53703-2025 (O&M)****Reserved on : 16.01.2026****Pronounced on : 20.01.2026**

Sukhwinder Kaur

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Ajay Kumar, Advocate for
Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. I.P.S. Sabharwal, DAG Punjab.

SURYA PARTAP SINGH, J.

For the commission of offence punishable under Section 21(C) and 29 of 'Narcotic Drugs and Psychotropic Substances Act', hereinafter being referred to as 'NDPS Act', the FIR No.184 dated 10.07.2025 has been lodged in Police Station ANTF (SAS Nagar), Jalandhar. The petitioner is being prosecuted for the commission of abovementioned offence and she has been arrested. The petitioner is in custody and, therefore, craving for bail.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being at the instance of 'SI Amandeep Singh', who had reported that on 09.07.2025, when he was heading a police party deputed for traffic checking at Dana Mandi Baghela, Focal Point, a reliable source gave him a tip-off that at about 06:15 pm, Sangram Singh and Sunny Singh, who

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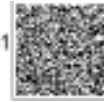
used to deal in sale of drugs, were waiting for a buyer of drugs on the paved portion of the road connecting Dana Mandi Baghela to Village Baghela. As per above-named police official, in view of abovementioned information when the raid was conducted, a person, namely Sangram Singh, was apprehended, whereas the second one managed to flee from the spot.

3. It is the case of the prosecution that when search of abovementioned Sangram Singh was conducted, from his possession, 511 gms of heroin was recovered. According to prosecution on recovery of abovementioned contraband, necessary formalities with regard to seizure & sealing of contraband, lodging of FIR, and arrest of the accused were performed, and further investigation taken up. As per prosecution, the accused Sangram Singh was arrested and during the course of investigation, on the basis of disclosure statement suffered by accused Sangram Singh, 343 gms of heroin was also recovered.

4. It is the further case of the prosecution that during further investigation, accused Sangram Singh suffered a disclosure statement, wherein he disclosed that he had transferred drug money to the account of Sagar Ram, who further transferred the same into the account of Sukhwinder Kaur (petitioner herein).

5. Heard.

6. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that she was not found in conscious possession of contraband allegedly recovered from the possession of co-accused Sangram Singh. According to learned counsel for the petitioner, the petitioner has been implicated, merely,



on the basis of disclosure statement suffered by co-accused Sangram Singh, and that the abovementioned disclosure statement is inadmissible in evidence, as the same was recorded, when the co-accused Sangram Singh was in police custody. According to learned counsel for the petitioner, the petitioner was not present at the spot, from where the recovery of abovementioned contraband was effected.

7. In addition to above, the learned counsel for the petitioner has also contended that the petitioner has already suffered a prolonged incarceration for being in custody for a period of more than 05 months, and that the petitioner has clean antecedents.

8. *Per contra*, the learned State Counsel has argued that the quantity of contraband recovered in this case comes within the ambit of 'commercial quantity', and therefore, without satisfying the twin conditions enshrined under Section-37 of NDPS Act, the benefit of bail cannot be afforded to the petitioner. However, this fact has not been disputed by the learned State Counsel that the petitioner has been implicated on the basis of disclosure statement, suffered by his co-accused Sangram Singh.

9. The record has been perused carefully.

10. To deal with the given fact-situation, the principles of law laid down by the Hon'ble Supreme Court of India in the case of '***Vijay Singh Vs. The State of Haryana***' 2023 SCC OnlineSC 1235 are relevant. In the abovementioned case, the petitioner was not present on the spot at the time of recovery and he was implicated solely on the basis of statement of co-accused. The Hon'ble Supreme Court of India in the abovementioned case afforded the benefit of bail to the accused.



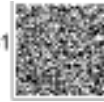
11. Similarly, in the case of '*Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence*' 2018(8) SCC 271, it has been held by the Hon'ble Supreme Court of India that the disclosure statement of co-accused is inadmissible against another accused, as the disclosure statement 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. If the facts and circumstances of the present case are analyzed in the light of above-mentioned principles of law, it transpires that:-

- (i) that only evidence available against the petitioner is the disclosure statement of her co-accused and there is a big question mark with regard to credibility & admissibility of above-mentioned statement in evidence, as the same was recorded when the maker of it (co-accused Sangram Singh) was already in police custody. Since pursuant to above-mentioned disclosure statement no recovery or discovery of fact has taken place, the same is *prima facie* hit by Section-23 of Bharatiya Sakshya Adhiniyam;



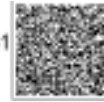
- (ii) that the petitioner has already suffered incarceration for a period of more than 05 months and 13 months;
- (iii) that nothing has been recovered from the possession of petitioner;
- (iv) that trial is not likely to be concluded in near future;
- (v) that the petitioner has no criminal antecedents;
- (vi) that nothing is left to be recovered from the possession of petitioner;
- (vii) that name of the petitioner does not figure in the FIR;
- (viii) that detention of petitioner in judicial lock up is not likely to serve any purpose;
- (ix) 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
- (x) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

15. 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(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”.

16. 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”.

17. 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”.

18. 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.

19. 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.



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20. 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 her furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the 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

20.01.2026*Gaurav Thakur*

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No