

2026.PHHC:016040



249-2

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH****CRM-M-51307-2025  
Date of Decision: 03.02.2026**

Mirgank Soni @ Mirgank @ Kaku

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY****Present:** Mr. Jatinder Pal Singh, Advocate and  
Mr. Ankush Dhanerwal, Advocate, ssfor the petitioner.

Mr. Vishal Singh, AAG, Haryana.

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**AARADHNA SAWHNEY, J. (ORAL)**

1. By virtue of the present 4<sup>th</sup> petition under Section 483 BNSS, petitioner, co-accused in case bearing FIR No.376 dated 25.04.2023 registered against him, for commission of offences punishable u/s 21(c) of the NDPS Act at Police Station Hisar Sadar, District Hisar, has prayed for grant of bail.

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

*“On 25.04.2023, ASI Dharambir Singh along with other police officials were on patrolling duty, when a secret information was received that Mrigank @ Kaku (petitioner) S/o Om Parkash Soni, R/o Lahoria Chowk Hisar, accompanied by Sonu @ Dhoni S/o Raghubir Soni, R/o Shiv Nagar Mill Gate Hisar and Irshad S/o Kamrudin, R/o Mandiaai, Distt. Meerut (UP) are habitual of indulging in narcotic substances. Today also they would be coming from Delhi to Hisar in a blue coloured Volkswagen Polo car bearing registration No.HR20-AC-5694. All three can be apprehended red handed keeping in their illegal possession narcotic substance.*

*Finding the information reliable, notice u/s 42 the NDPS Act was prepared and sent to SHO, PS Sadar Hisar. A naka was laid on the disclosed site. After some time a car make Volkswagen Polo bearing registration No.HR20-AC-5694 was noticed coming from the side of Delhi. Driver was signalled to stop but he tried to run away. However, on account of sharp reflexes of the police officials, vehicle was apprehended. Driver was asked to park the same on the right side. When questioned the person on the driver seat introduced himself as Mrigank @ Kaku (petitioner) S/o Om Parkash Soni, R/o Lahoria Chowk Hisar. The person on the conductor seat disclosed his name as Sonu. The person on the rear seat introduced himself as Irshad. After statutory formalities were complied at the site, personal search of the above mentioned three persons was conducted. As per case set up by prosecution following articles were recovered from the possession of the present petitioner and co-accused:-*

*\* From the left pocket of petitioner's pants, one mobile phone of ASUS (black colour) and the original RC of vehicle No.HR-20AC-5694 were recovered.*

*\* From the left pocket of pajama of co-accused Irshad, one mobile phone of Vivo (blue colour) was recovered.*

*\* From the right hand of co-accused Sonu @ Dhoni, one plastic polythene packet was recovered. On opening and checking, heroin (chitta) was found inside.*

*Admittedly, the vehicle in which all three were travelling was registered in the name of the mother of petitioner. It is further the case of the prosecution that approximately 510 grams heroin was recovered from the personal search of co-accused Sonu @ Dhoni. Petitioner and other two co-accused were caught at the site. On completion of investigation, formal challan was present in the Court.*

Petitioner-accused, who was arrested on 25.04.2023 moved an application for grant of bail before the learned Ld. Additional Sessions Judge, Hisar. The same was dismissed vide order dated 29.08.2024. Admittedly, this is the fourth petition for grant of bail filed by the petitioner. The last petition i.e.

CRM-M-47574-2024 filed by him (p) was dismissed on 02.12.2024 (Annexure P-5).

3. Learned counsel for the petitioner submits that petitioner, who is himself a victim of drug menace has been falsely implicated in the present case. The statutory formalities were not complied with in letter and spirit by the police team. Learned counsel further contends that though the vehicle in which petitioner and other two co-accused were travelling, is registered in the name of the mother of the petitioner but no contraband was recovered from his (p) conscious possession. Petitioner was not aware that co-accused Sonu was carrying a bag in which he had kept 510 grams of heroin.

It is further the submission of learned counsel that since the dismissal of the third petition (Annexure P-5) by this Court on 02.12.2024 only one prosecution witness has been examined. Thus, the likelihood of completion of trial in the near future is quite remote. The next leg of submission raised by learned counsel is that petitioner, who has been in custody since 25.04.2023 and whose past antecedents are clean (being not involved in any criminal case), deserves a lenient view to be taken in his favour as his further incarceration would not serve any useful purpose and would also be violative of Fundamental rights guaranteed under Article 21 of the Constitution of India. Primarily with this submission, prayer for allowing the petition has been made.

4. *Per contra*, learned State counsel while referring to the status report dated 04.12.2025 filed by way of affidavit of Mr. Kamaljeet Singh, HPS, Deputy Superintendent of Police, HQ, Hisar, has opposed the request for grant of bail on the ground that *Nakabandi* was laid by the police authorities after receiving an authentic secret information that petitioner and other two co-accused, who are habitual drug peddlers, can be apprehended while keeping in their illegal possession huge quantity of contraband. Informant further

disclosed the identification details of the vehicle in which all three accused were travelling. Learned counsel contends that the fact that the vehicle is registered in the name of the mother of the petitioner further indicates his complicity. There being nothing on record to draw an inference that petitioner was not aware about contraband being in possession of his accomplice. Mandatory provisions of NDPS Act were complied with after which recovery of 510 grams of heroin was effected from the conscious possession of co-accused Sonu as also that since contraband recovered in the present case falls within the 'Commercial Quantity'; 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. Further according to learned State counsel, if lenient view is taken in favour of the petitioner, 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 with strictly. Though, learned State counsel fairly admits that the past antecedents of the petitioner are quite clean. Dismissal of the petition has been prayed for.

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

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

Having gone through the aforesaid judgments, it is clear that Constitutional liberty must override the statutory embargo. Guided solely by the said principle and considering that the possibility of completion of trial in near future is quite remote as since the dismissal of 3<sup>rd</sup> petition for grant of bail on 02.12.2024 only one PW has been examined, petitioner, who has been in custody since 25.04.2023 and whose past antecedents are clean, deserves a lenient view in his favour as the Court is of the opinion that in the facts and circumstances as mentioned hereinabove, further incarceration of petitioner in custody would not serve any purpose. Resultantly, petitioner is granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court/CJM/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.*

7. 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.

03.02.2026  
Parveen kumar

(AARADHNA SAWHNEY)  
JUDGE

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