



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

229

CRM-M No.52321 of 2025 (O&M)
Date of Decision: 22.01.2026

Gursewak Singh

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Jagjeet Singh, Advocate for the petitioner.

Mr. Lakhan, AAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 21(b), 22 and 27(a) of the Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter being referred to as “the NDPS Act”, the FIR No.133 dated 30.05.2025 has been lodged in Police Station Dinanagar, District Gurdaspur. The petitioner has been arrested in the above mentioned case as an accused. Since the petitioner is in custody, he has filed the present petition for the benefit of bail. This is Ist petition for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Briefly stating the facts emerging from record are that the FIR of this came into being at the instance of ‘ASI Ramesh Kumar’. It was reported by the above named police official that on 30.05.2025 when he was patrolling with a police party, deputed for usual law and order duty scooter bearing registration No.PB-06BB 3808 was spotted. According to above named police



official on the basis of suspicious activities of above mentioned scooterist when he was intercepted for checking on search of his person it was found that the abovesaid scooterist in possession of 6 grams of 'heroin' and 600 tablets of intoxicating substance. According to above named police official on recovery of above mentioned contraband the usual formalities with regard to registration of FIR, search, seizure and sealing of contraband and arrest of accused were undertaken and further investigation taken up.

3. Since advance notice has already been served, Mr. Lakhan, AAG, Punjab, appears on behalf of respondent-State. Hence, service of notice upon the State is hereby dispensed with.

4. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record.

5. Reply by way of affidavit of Deputy Superintendent of Police, Sub Division Dinanagar, District Gurdaspur is already on record.

6. Heard.

7. It has been contended on behalf of the petitioner that petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that the quantity of contraband recovered from the possession of petitioner is non-commercial quantity. It has also been contended by learned counsel for the petitioner that petitioner has already suffered a lot of incarceration for being in custody for a period of 7 ½ months, and that trial is not likely to be concluded in near future, and therefore, the petitioner is entitled for the benefit of bail.

8. Per contra, the learned State counsel has submitted that the

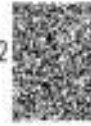


petitioner is a person having criminal antecedents, and that in past also he has been prosecuted for similar type of offence. According to learned State counsel the petitioner was found in possession of 6 grams of 'heroin' along with 79.8 grams of intoxicating tablets, and that the gravity of offence coupled with the criminal history of the petitioner renders the petitioner ineligible for regular bail.

9. The record has been perused carefully.

10. A perusal of the record shows that following are the relevant factors which are required to be taken into consideration for the decision of present petition:-

- i) that the quantity of contraband recovered from the possession of petitioner was non-commercial quantity as against the lower limit prescribed for commercial quantity of 'heroin', i.e. 250 grams, the petitioner was found in possession of 6 grams of 'heroin' and against the lower limit of commercial quantity prescribed for intoxicating tablets (Alprazolam), i.e. 100, grams 79.8 grams of intoxicating tablets were recovered;
- ii) that nothing is left to be recovered from the possession of petitioner;
- iii) that the petitioner has already suffered sufficient incarceration for being in custody for a period of 7½ months;
- iv) that the trial is not likely to be concluded in near future;
- v) that detention of the petitioner in judicial lock-up is not likely to



serve any purpose;

vi) that there is nothing on record to show that if released on bail, the petitioner is likely to tamper with the evidence, or influence the witnesses;

vii) that there is nothing on record to show that if petitioner is released on bail, he will not participate/co-operate in the trial.

11. 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) 3 SCC 22, 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”.

12. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil v. Central Bureau of Investigation’ (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”.

13. 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”.

14. 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 an undertrial prisoner, as mandated by Hon’ble Apex court in ‘Balwinder Singh versus State of Punjab and another’ 2024 SCC Online SC 4354.

15. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession of bail, and that the present petition deserves to be allowed.

16. 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 his 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 from disclosing 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 trial Court.

(SURYA PARTAP SINGH)
JUDGE

22.01.2026
Manoj Bhutani

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