



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

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CRM-M-53506-2025 (O&M)
Date of decision : 24.02.2026

Okoye Nnamdi

..... Petitioner

VERSUS

U.T. Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Arjun Veer Sharma, Advocate for the petitioner.

Mr. Vipin Pal Yadav, A.P.P., U.T. Chandigarh

SURYA PARTAP SINGH, J.

This petition for bail is first petition filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023. It has been filed with regard to a case arising out of FIR No.16 dated 22.07.2025, for the commission of offence punishable under Section 22, (Sections 21 and 29 of NDPS Act added later on) of Narcotic Drugs and Psychotropic Substances Act, hereinafter being referred to as 'NDPS Act'), Police Station Crime-11, Chandigarh.

2. The abovementioned FIR came into being at the instance of 'ASI Naseeb Singh', who reported that on 22.07.2025 at about 02:40 am, when he was leading a team of police officials deputed for usual law and order duty and vehicle checking, a person was spotted on the roadside situated on the backside of ISBT Sector-43 Chandigarh. According to above-named police official, on the basis of suspicious behaviour of



abovementioned person, he was intercepted and on enquiry, he disclosed his name as 'Imoru Damian' R/o Khuni Majra, Kharar, SAS Nagar. As per above-named police official, on search of his body, he was found in possession of 62.60 gms of intoxicating powder, namely ICE (crystal methamphetamine).

3. It is the case of the prosecution that pursuant to recovery of 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. According to prosecution, on interrogation, the abovementioned accused suffered a disclosure statement, wherein he nominated his co-accused Okoye Nnamdi (petitioner herein). As per prosecution, in view of abovementioned information the petitioner was arrested and from his possession 35.80 gms of Cocaine and 5.73 gms of ICE (crystal methamphetamine), were recovered.

4. **Notice of motion.**

5. Mr. Vipin Pal Yadav, A.P.P., U.T. Chandigarh appears on behalf of respondent. Hence service of notice upon the U.T. is hereby dispensed with. The learned U.T. Counsel has filed reply as well as custody certificate of the petitioner. The same be taken on record.

6. Heard.

7. It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case, and that he has already suffered incarceration for being in custody for a period of more than



seven months. As per learned counsel for the petitioner, the petitioner has clean antecedents, and that the recovery of contraband from the possession of petitioner comes within the ambit of 'non-commercial quantity'. It has also been contended by learned counsel for the petitioner that since the trial is not likely to be concluded in near future, the petitioner is entitled for the benefit of bail.

8. The learned State Counsel has controverted the abovementioned arguments. According to learned State Counsel, in the present case the facts as projected by the petitioner are not true. As per learned State Counsel, in the present case the recovery effected from the possession of petitioner in itself is not to be taken into consideration, and that the same has to be considered conjointly with the recovery, which took place from the possession of his co-accused, namely Imoru Damian. According to learned State Counsel, 62.60 gms of ICE (crystal methamphetamine) has been recovered from the possession of co-accused Imoru Damian, and that the abovementioned quantity in itself is sufficient to bring the case of petitioner within the ambit of Section-37 of NDPS Act.

9. It has also been contended by learned State Counsel that the petitioner and his co-accused are operating as a gang involved in illegal trading of narcotic substance, and therefore, unless the twin conditions prescribed under Section-37 of NDPS Act are complied with, the petitioner is not entitled for the benefit of bail.

10. The record has been perused carefully.



11. In the present case, at the very outset it is pertinent to mention here that as per case set-out by the prosecution, the recovery has taken place on two different dates/timings and from two different places from two different persons. Except the fact that the accused, from whose possession first recovery had taken place, nominated the petitioner, there is no link between the two incidents at all. In this regard the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Amarsingh Ramjibhai Barot V/s State of Gujarat' AIR 2005 SC 4248, are relevant, wherein while dealing with similar situation, it has been observed by the Hon'ble Supreme Court of India that quantity of contraband carried by both the accused cannot be added to bring the same within the ambit of 'commercial quantity'.

12. 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 if the abovementioned principles are taken into consideration, the quantity of contraband recovered from the possession of petitioner does not come within the ambit of 'commercial quantity';
- ii) that in view of observations in the foregoing paragraphs, once the recovery of contraband from the possession of petitioner comes within the ambit of 'non-commercial quantity', rigors of Section-37 of NDPS Act are not applicable;
- iii) that the petitioner is already in custody for a period of more than seven months;



- iv) that as per custody certificate placed on record by learned State Counsel, the petitioner has clean antecedents;
- 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;
- 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 trial.

13. 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”.

14. 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”.

15. 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

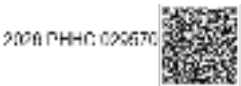


incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that “delays 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”.

16. 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.

17. 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.

18. 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

24.02.2026
Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No