



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

236

CRM-M-54731-2025
Date of Decision : 09.02.2026

GURBINDER SINGH ALIAS JOBAN ALIAS FAUJI

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Hardeep Hans, AAG, Punjab.

AARADHNA SAWHNEY, J. (ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No.72 dated 15.09.2024 registered against him, for commission of offences punishable u/s 21-C, 29 of Narcotic Drugs and Psychotropic Substances, Act 1985 at Police Station Verka, Amritsar, has prayed for grant of bail.

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

On 15.09.2024, Police team headed by Inspector Amanjot Kaur, SHO, Police Station Verka, Amritsar, was on patrolling duty, when they saw a person coming from the opposite direction, who on seeing the police party tried to turn away. But due to sharp reflexes of police officials, they were able to apprehend him. He introduced himself as Gurbinder Singh @ Joban @ Fauji (present petitioner). After statutory formalities were complied with, petitioner was



searched and from his personal possession 499 grams of 'heroin' (Commercial Quantity) was recovered.

During interrogation, he confessed to his involvement and disclosed that on the directions of one Anmol, s/o Harjit Singh, he (P) had supplied heroin to one Dilpreet Singh, so/ Daler Singh.

3. Petitioner-accused, moved an application for grant of bail before the learned Additional Sessions Judge, Amritsar. The same was dismissed vide order dated 07.08.2025. Aggrieved of which, present petition has been filed.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. The Police team did not comply with the mandatory statutory provisions. Further, despite the fact that alleged recovery was effected from busy public place, but no efforts were made by IO to join any independent person as a 'witness' to the case proceedings, neither any cogent reason is forthcoming for this procedural lapse.

Continuing further, learned counsel submits that on completion of investigation, challan was filed 05.03.2025 and though charges have been framed, but no prosecution witness has been examined till date, thus, likelihood of completion of trial in the near future is quite remote. When appreciated in the light of factual scenario of the case and submissions advanced hereinabove, further incarceration of petitioner, who is not involved in any other case of like nature, would not serve any useful purpose as the same would be violative of his Fundamental rights guaranteed under Article 21 of the Constitution of India.

Learned counsel contends that petitioner, who has been in custody since 15.09.2024, thus, deserves a lenient view to be taken in his favour by extending him the concession of bail. Prayer for allowing the petition has been



made.

5. Status report dated 08.02.2026 by way of an affidavit of Mr. Anubhav Jain, Assistant Commissioner of Police, East, Amritsar, has been placed on record. Learned State counsel has opposed the request for grant of bail on the ground that '*Commercial Quantity*' of contraband was recovered from the conscious possession of petitioner. Learned State counsel further submits that even the past antecedents of petitioner are far from satisfactory, as he is also involved in one other criminal case (FIR No.106 dated 28.05.2023, u/s 160, 148, 149, 295-A IPC), thus, it cannot be presumed that he is not involved in this offence or that he is not likely to commit the offence again, if extended the concession of bail. Dismissal of the petition has been prayed for.

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

7. Before proceeding to discuss the rival contentions, it would be appropriate to refer to judgment of Hon'ble Supreme Court wherein case titled as ***Shambu Lal Gurjar Vs. State of Rajasthan, SLP Criminal 16671 of 2024***, decided on 23.04.2024, it was held as under:-

"The allegations against the petitioner is that there is a recovery of 60 kgs poppy husk/straw (contraband article) from him and prior to this incident, he has three criminal antecedents relating to the NDPS Act registered in the year 2019, 2021 and 2022. The third bail application of the petitioner was dismissed by the High Court. He has already undergone about 1 year and 8 months in jail.

Heard learned counsel for the petitioner and the respondent State.

Considering the fact that the contraband article is a poppy straw although he has three criminal antecedents but since he has been in jail for the last 1 year and 8 months, we are of the opinion



that a case of bail is made out for the petitioner.”

Further in ***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.

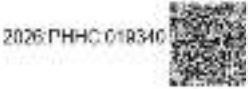
In ***Santarul Islam Vs. State of West Bengal, Law Finder Doc Id# 2735329***, Hon’ble Supreme Court granted bail to the petitioner who was also caught keeping in his illegal possession of PHENSYDRYL Cough Syrup (on the ground of prolonged custody and nature of contraband).

In ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012(1) RCR (Criminal) 586***, Hon’ble Supreme Court upheld the order of the High Court in granting bail to the second respondent/accused on the ground that he had been in custody for a long period and the possibility of the trial being concluded in the near future was remote.



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, petitioner, who has been in custody since 15.09.2024, deserves a lenient view to be taken in his favour, for the likelihood of completion of trial is quite remote as no witnesses has been examined till date. The Court is, thus, of the opinion that in the facts and circumstances as mentioned above, his (P) further incarceration in custody would not serve any purpose. Resultantly, in view of discussion made herein above, petitioner is granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court/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.

8. 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.

(AARADHNA SAWHNEY)
JUDGE

09.02.2026
Nisha Yadav

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>