



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

221

CRM-M-55576-2025
Date of Decision : 06.02.2026

MALKIT SINGH @ BABBU

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J. (ORAL)

1. This is the second petition for grant of bail under Section 483 BNSS filed by petitioner, an accused in case bearing FIR No.29 dated 14.03.2024, registered against him for commission of offences punishable u/s 21 (C) of Narcotic Drugs and Psychotropic Substances, Act 1985, at Police Station Subhanpur, District Kapurthala. The earlier petition for bail filed before this Court was withdrawn by him on 06.03.2025.

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

On 14.03.2024 based on a chance recovery, Police team headed by SI Labh Singh seized 300 grams of 'Heroin' of 'Diacetylmorphine Salt' (contraband falls within 'Commercial' Quantity) from the dashboard of the vehicle bearing registration No.PB-09AC-0985 (make Markak Mahindra TUV car) driven by Malkit Singh @ Babbu (present petitioner), son of Surjit Singh.



After the statutory formalities were complied with, FIR was lodged and petitioner was arrested on the same day i.e. 14.03.2024.

3. Petitioner/accused moved an application for grant of bail before the Judge, Special Court, Kapurthala. The same was dismissed vide order dated 18.06.2024.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. No recovery has been effected from him. The Police team did not comply with the mandatory provisions of Section 50 of the Act. Further the falsity of the case set up by the prosecution is apparent from the fact that despite the alleged recovery of contraband was effected from busy public place but no efforts were made by Investigating Officer to join any independent person as a 'witness' to the case proceedings. Petitioner was in fact picked up from his house and not at the site, so mentioned in the FIR. In this context, an application was also given to the learned trial Court with a request to preserve the CCTV footage of CIA Staff, Kapurthala, as also for preserving the call details records of police officials including IO Labh Singh. The footage and CDR would substantiate the case of petitioner regarding his false implication.

Learned counsel next contends that the present case is a counter-blast to a petition filed by the mother of the petitioner, wherein she had specifically mentioned her apprehension that her son i.e. present petitioner was caught and embroiled in a false case by the local police officials, who are nursing grudge against the entire family.

Learned counsel though fairly concedes that petitioner is involved in three more cases of like nature (in FIR No.142 dated 19.06.2017 u/s 21 of NDPS Act, he is on bail; FIR No.155 dated 29.09.2013, u/s 15 NDPS Act, sentence



already undergone by him and in FIR No.71 dated 04.07.2015, u/s 22 of NDPS Act, sentence of petitioner has been suspended by this Court).

The next leg of submission raised by learned counsel is that since the withdrawal of the first petition on 06.03.2025, out of 08 prosecution witnesses, only one has been examined, thus, the likelihood of completion of trial in the near future is quite remote. Hence, further incarceration of petitioner, would not serve any useful purpose as the same would also be violative of his Fundamental rights guaranteed under Article 21 of the Constitution of India.

Towards the end, learned counsel contends that petitioner, who has been in custody since 14.03.2024, deserves a lenient view to be taken in his favour by extending him the concession of bail; as also that his past questionable antecedents cannot be the sole basis for refusing the relief sought by him. Prayer for allowing the petition has been made.

5. *Per contra*, learned State counsel while referring to the Status report dated 09.12.2025 by way of affidavit of Mr. Karnail Singh, Deputy Superintendent of Police, Sub-Division Bholath, Kapurthala, has opposed the request for grant of bail on the ground that petitioner is a habitual offender, who is engaged in the illegal business of selling and purchasing contraband. On previous occasions as well, he was caught red handed while keeping in his possession '*Non-Commercial Quantity*' of contraband, and was also convicted by the concerned Court. His past antecedents clearly show that he has not made an effort to improve himself, thus, if extended the concession of bail, the likelihood of him committing the same offence is quite high, as also is the possibility of him fleeing from the process of justice by not appearing in the Court.

It is also the contention of learned State counsel that in view of the



quantity of contraband recovered from the petitioner, the 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, the fact that he is involved in three more cases of like nature, no case for grant of bail is made out. 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 certain judgments 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.

It is, thus, clear that criminal antecedents by themselves, is not a legal ground to deny the rigors of Section 37 of the NDPS Act, particularly in cases where the accused-petitioners are in custody for a long period.

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 14.03.2024, deserves a lenient view to be taken in his favour, for the likelihood of completion



of trial is quite remote as out of 08 prosecution witnesses, only 01 has been examined till date (since the dismissal of the first petition). 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.

9. Pending application, if any, also stands disposed of.

(AARADHNA SAWHNEY)
JUDGE

06.02.2026
Nisha Yadav

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