



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

227

CRM-M-56768-2025

Date of decision: 09.01.2026

Arshdeep Singh @ Arsh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. P.S. Sekhon, Advocate for the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J.(ORAL)

1. By virtue of the second petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No. 33 dated 03.05.2023 registered against him, for commission of offences punishable under Sections 21-C/29 of Narcotic Drugs and Psychotropic Substances, Act 1985 at Police Station Chohla Sahib, District Tarn Taran, has prayed for grant of bail.

2. In brief, the case of the prosecution is that on the basis of secret information received by police team headed by ASI Bikkar Singh, a nakka was laid at the disclosed place, when 2 persons namely Arshdeep Singh @ Arsh (P) and Karanbir Singh, both sons of Gurjant Singh were caught red handed while keeping in their illegal possession 305 grams of 'Heroin' (Commercial Quantity). After the statutory formalities were completed, FIR was lodged. Both the aforesaid persons were arrested at the site on 03.05.2023.

On culmination of investigation, challan was prepared and filed in the Court on 27.10.2023.

3. Petitioner/accused who was arrested on 03.05.2023 moved an application for grant of bail before the learned Judge, Special Court, Tarn Taran. The same was dismissed vide order dated 06.09.2023. The first bail



petition filed by petitioner before this Court was dismissed vide order dated 08.08.2024.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. False recovery of 305 grams of Heroin has been planted upon him and co-accused Karanbir Singh @ Preet. The other leg of submission raised by learned counsel is that that there has been gross violation of the provisions of Section 42 of the Act. Mandatory notice so required u/s 50 of the Act was not issued. 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 IO to join any independent person as a witness to the case proceedings.

Continuing further, learned counsel submits that on completion of investigation, challan was filed on 27.10.2023 and petitioner was charge-sheeted on 20.11.2023. But till date, out of 16 prosecution witnesses, only 10 have been examined so far, thus, likelihood of completion of trial in the near future is quite remote. Hence, further incarceration of petitioner in custody, would not serve any useful purpose and would also be violative of his Fundamental rights guaranteed under Article 21 of the Constitution of India.

It is further the submission of learned counsel that similarly situated co-accused Karanbir Singh @ Preet had been granted the concession of bail by this Court vide order dated 19.09.2025 (Annexure P-5). On grounds of parity, learned counsel submits that similar treatment be also meted out to the petitioner.

Towards the end, learned counsel contends that petitioner, who



has been in custody since 03.05.2023, 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 07.01.2026 by way of affidavit of Mr. Atul Soni, PPS, Deputy Superintendent of Police, Tarn Taran, has been filed. Learned State counsel has opposed the request for grant of bail on the ground that contraband recovered from the petitioner is 'Commercial Quantity'. In view of the quantity of the contraband recovered from the petitioner and co-accused arrested at the site, as per learned State counsel 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. 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).

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 03.05.2023 deserves a lenient view. The case that has been set up against



petitioner and co-accused Karanbir Singh @ Preet is that both of them were caught red handed allegedly keeping in their illegal possession 305 grams of Heroin (Commercial Quantity). Admittedly, the petitioner is not involved in any other case of like nature. Challan was filed on 27.10.2023, the likelihood of completion of trial is quite remote as out of 16 prosecution witnesses, only 10 have been examined till date, as also taking note of the fact that Coordinate Bench of this Court has already granted concession of bail to co-accused Karanbir Singh @ Preet, this 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

09.01.2026

Hemant

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