

**In the High Court of Punjab and Haryana, at Chandigarh****Criminal Misc. No. M-58937 of 2025****Date of Decision: 29.01.2026**

Harish Kumar

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.Present: Ms. Riffi Birla, Advocate
for the petitioner(s).Mr. I.P.S.Sabhardwal, Deputy Advocate General,
Punjab, for the respondent.**Surya Partap Singh, J.**

1. For the commission of offence punishable under Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter being referred to as “the NDPS Act” only, the FIR No. 211 dated 29.09.2017 has been lodged in Police Station City-I Abohar, District Fazilka, Punjab. This is second petition for bail, filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred to as “BNSS” only.

2. During the course of investigation of above mentioned case, the petitioner was arrested on 29.09.2019 and he was afforded the benefit of interim bail by virtue of order dated 30.03.2020 passed by the learned trial Court. Thereafter, the petitioner was declared proclaimed offender by virtue of order dated 25.09.2023. The petitioner was again arrested on 03.09.2024

and since then he is in custody. Thus, for the concession of bail he has approached this Court, by virtue of present petition under Section 483 of BNSS.

3. Briefly stating the facts emerging from the record are that the FIR of this case came into being at the instance of 'Inspector Kuldeep Chand' who had reported that on 29.09.2019 when he was heading a police party deputed for patrolling duty at the link road from Dhani Billian Wali Sitto Road, Abohar to Bahawalwasi, a tip-off was given by a reliable source. According to the above named police officer, it was told that 'Harish Kumar' (petitioner herein) and 'Paramjit Kaur' were involved in the trading of heroin and intoxicating tablets, and that they had purchased consignment of above mentioned drug from Rajasthan. It was also informed that both of them were travelling towards Abohar, Punjab on a motorcycle. According to the above named police officer, in view of above mentioned tip-off an information memo was sent to the police station and a picket was set-up to intercept the motorcycle. As per prosecution, during the course of checking the motorcycle bearing registration No. PB-22G-6455 was intercepted and on enquiry, the occupants of the above mentioned motorcycle were found to be 'Harish Kumar' (petitioner herein) and 'Paramjit Kaur'.

4. It is the case of prosecution that when the search of bodies of above named two persons was carried out as per the laid down procedure, from the possession of petitioner, three grams of heroin and from the possession of 'Paramjit Kaur' 550 intoxicating tablets were recovered. It is the case of prosecution that on recovery of above mentioned contraband, requisite formalities with regard to seizure and sealing of contraband,

lodging of FIR and arrest of accused were undertaken. As per prosecution, on completion of formalities, the petitioner and his co-accused were arrested.

5. Heard.

6. It has been contended on behalf of petitioner that the petitioner is innocent who has been falsely implicated in the present case. According to learned counsel for the petitioner, the petitioner has already faced prolonged incarceration for being in custody for a period of almost one year & 11 months. The learned counsel for the petitioner has further contended that the recovered contraband does not come within the ambit of commercial quantity and therefore, rigors of Section 37 of the NDPS Act are not attracted in the present case.

7. In addition to above, the learned counsel for the petitioner has also contended that although this is second petition for bail moved by the petitioner, yet the same is maintainable as the first bail petition was not decided on merits and the same was dismissed as withdrawn

8. The learned State counsel, while controverting the above mentioned arguments, has contended that the petitioner does not have clean antecedents as he is facing multiple trials regarding similar kind of offences. As per learned State counsel, the total period of custody of petitioner is not sufficient enough to draw an inference that there is delay in trial and therefore, the petitioner is entitled for the benefit of bail. It is also contended by the learned State counsel that otherwise also the petitioner has misused the concession of bail, and that at one point of time he had been declared as proclaimed offender.

9. The record has been perused carefully.

10. A perusal of the record shows that there are several factors which are required to be taken into consideration at this stage. Those factors are:-

- i) that the petitioner is already in custody for a period of almost one year & 11 months;
- ii) that the quantity of recovered contraband from the possession of petitioner as well as his co-accused is a non-commercial quantity;
- iii) that the trial of the case is not likely to be concluded in near future;
- iv) that nothing is left to be recovered from the possession of petitioner;
- v) that detention of petitioner in the judicial lock-up is not likely to serve any purpose;
- vi) that there is nothing on record to show that while on bail, the petitioner is likely to tamper with the evidence or influence the witnesses; and
- vii) that there is nothing on record to show that while on bail, the petitioner will not participate/cooperate in trial.

11. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held the present petition deserves to be allowed. Hence, the same is hereby **allowed** and the petitioner is admitted to bail subject to his furnishing bail bonds to the satisfaction of the learned trial Court. In case, the learned trial Court concerned is not available, on the

date of furnishing bail bonds, the learned Sessions Judge shall be at liberty to assign the above case, for the above-mentioned purpose, to any other Court.

12. It is, however, made clear that any observation made here-in-above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(Surya Partap Singh)
Judge

January 30, 2026
“DK”

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