

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

2026:PHHC:028263



(123)

CRM-M-60118-2025

Date of Decision: 23.02.2026

Sumit Kumar @ Fouji @ Noni

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Geeteshwar Saini, Advocate for
Mr. R.K. Arya, Advocate for petitioner.

Mr. Raj Karan Singh, AAG, Punjab.

RAJESH BHARDWAJ.J (Oral)

1. Present first petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.0087, dated 02.08.2025, under Sections 21, 29-61 of NDPS Act, registered at Police Station Sadar Pathankot, District Pathankot.

2. Succinctly, the facts of the case are that the police party, while on patrolling on 02.08.2025, saw a man riding motorcycle coming towards T-Point turn at Gharota. On seeing the police, he got perplexed and turned his motorcycle. Thereafter, due to blockage of road, he left his motorcycle and tried to run away and threw the polythene envelope on the ground. However, he was apprehended by the police party and on asking, he disclosed his name to be Imran Khan @ Kali. On suspicion, search of the envelope thrown by the accused, was conducted and a recovery of 08 grams of heroin was effected from it. He failed to produce any licence regarding

the conscious possession of the same, thus, the FIR was registered and investigation commenced. During investigation, accused Imran Khan named the present petitioner in his disclosure statement. The samples taken were sent to the FSL. On receipt of FSL report, challan was presented and on framing of charges, trial commenced. The petitioner approached the Court of learned Judge, Special Court, Pathankot praying for the grant of bail. However, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Pathankot, declined the bail application filed by the petitioner vide order dated 23.09.2025. Hence being aggrieved, the petitioner is before this Court by way of filing the present petition praying for the grant of regular bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case on the basis of disclosure statement made by co-accused Imran Khan, which is not an admissible evidence. He has submitted that the alleged recovery has been effected in the present case from the public place, however no independent witness has been joined. He has submitted that there is a violation of mandatory provisions of Section 50 of NDPS act in conducting the search. He has submitted that the alleged recovery effected from the petitioner is 08 grams of heroin only, which even otherwise is a small quantity and thus, the provisions of Section 37 of NDPS Act are not attracted. It is submitted that though petitioner is involved in two other criminal cases, however, he is on bail in those cases. Counsel submits that petitioner is behind bars for more than 05 months, however, there is no material progress in the trial and thus petitioner deserves the concession of bail.

4. Learned State Counsel has vehemently opposed the

submissions made by learned counsel for the petitioner. He submits that 08 grams heroin was recovered from the co-accused Imran Khan, who during investigation disclosed the complicity of the present petitioner as being the supplier of the contraband. He further submits that out of total 17 prosecution witnesses, none has been examined. He has produced the custody certificate of the petitioner, which is taken on record.

5. On hearing learned counsel for the parties and perusing the record, it is deciphered that petitioner has been named in the present on the basis of disclosure statement made by co-accused Imran Khan from whom recovery of 08 grams of heroin was effected. The recovered contraband is marginally above the small quantity. The petitioner is behind bars since 04.09.2025. Custody certificate produced would show that the petitioner has suffered an incarceration of 05 months and 16 days as on 22.02.2026. It further reflects that the petitioner is involved in three other cases, however, he is on bail in one case and acquitted in one case.

6. This Court would refrain itself from commenting anything on the merits of the case. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time.

7. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail.

8. Accordingly, the present petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the

satisfaction of the concerned Trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

9. In case the bail bonds are not furnished by the petitioner during the period of 07 days from today, then his further custody period after one week will not be counted in the present case.

23.02.2026
lucky

(RAJESH BHARDWAJ)
JUDGE

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