

2026.PHHC.031478



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

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Date of decision: 26.02.2026

1. CRM-M-63797-2025

BALWINDER SINGH V/S STATE OF PUNJAB

2. CRM-M-63935-2025

SURMUKH SINGH ALIAS SAMMU V/S STATE OF PUNJAB

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Ramnish Puri, Advocate for the petitioner
In CRM-M-63797-2025.

Mr. Vishal Khatri, Advocate for the petitioner
In CRM-M-63935-2025.

Ms. Gagandeep Kaur, DAG, Punjab.

AMAN CHAUDHARY, J. (Oral)

1. The present petitions filed under Section 483 of BNSS 2023 for grant of regular bail to the petitioners in case FIR No.92 dated 16.05.2022, registered at Police Station Special Task Force, STF Wing, under Sections 21, 23 of NDPS Act, Sections 4, 5 of Explosive Substances Act, 1908, Section 25 of the Arms Act, (Section 27-A, 29, 59(2) of NDPS Act and Section 7, 13(1)(a)(2) of Prevention of Corruption Act, added later on) and Sections 13, 16, 18, 20 of UAPA Act (deleted vide DDR No.12 dated 18.09.2023).

2. Learned counsel submits that the petitioners-Balwinder Singh and Surmukh Singh, have been in custody for 3 years, 7 months, 4 days and 3 years, 8 months, 28 days, respectively. The commercial quantity has allegedly been recovered from the petitioners, it being 3 kg. of heroin. No independent witness has been joined at the time of recovery. There is non-compliance of mandatory

provisions of Sections 42 and 50 NDPS Act. Co-accused Sawinder Singh, Harpreet Singh, SI Narinder Singh, Guravtar Singh, Lakhbir Singh and Avtar Singh, have been granted bail by this Court vide orders, appended as Annexures P3 to P8. Charges have been framed on 23.02.2023 and 22 PWs, out of 43, have been examined. Petitioner-Balwinder Singh is involved in 3 more cases, out of which, he is on bail in 1 and petitioner-Surmukh Singh in two, on bail in both. Reliance is placed on the judgment passed by Hon'ble The Supreme Court titled as **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

3. The custody certificates dated 25.02.2026, filed by the learned State counsel are taken on record. As per the same, the petitioners are behind bars for 3 years, 7 months, 4 days and 3 years, 8 months, 28 days.

4. Learned State counsel opposes the bail on the ground that commercial quantity of contraband has been recovered from the petitioners, who were apprehended at the spot. However, he is unable to controvert the submissions with regard to stage, petitioners being on bail in another case and co-accused having been enlarged on bail.

5. Heard.

6. Hon'ble The Supreme Court in the case of **Maulana Mohd. Amir Rashadi** (Supra) had held that, "As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc." Reiterating in **Prabhakar Tewari vs. State of UP and another**, (2020) 11 SCC 648, it was observed that, "The offence alleged no doubt is grave and serious and there are

several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail.”

7. Hon'ble The Supreme Court in **Shariful Islam @ Sarif versus The State of West Bengal** SLP (Crl.) No.4173/2022, decided on 04.08.2022, granted bail to the petitioner in a case of recovery of commercial quantity of contraband, considering incarceration for over 1 year and 6 months and there being no likelihood of completion of trial in the near future, while the Division Bench of this Court in **Bhupender Singh vs. Narcotic Control Bureau** (2022) 2 RCR (Crl.) 706, observed with regard to achieving balance between right to speedy trial guaranteed under Article 21 of the Constitution of India and rigors of Section 37 of NDPS Act.

8. This Court in the case of **Balraj Singh vs. State of Punjab** CRM-M-57386-2022, on 14.12.2022 has followed the dictum laid down by Hon'ble The Supreme Court and granted the bail to the petitioner therein after he had undergone total custody of 1 year and 6 months and in **Munasi Masih vs. State of Punjab**, CRM-M-31504-2022, on 06.2.2023, wherein commercial quantity of contraband had been recovered but only 2 out of 13 PWs had been examined, allowed bail.

9. Considering the facts and circumstances of the cases, in particular that the petitioners are in custody for 3 years, 7 months, 4 days and 3 years, 8 months, 28 days; Petitioner-Balwinder Singh on bail in another case and petitioner-Surmukh Singh in other cases; co-accused are on bail; charges were framed on 23.02.2023 and out of 43 prosecution witnesses only 22 have been examined so far, the trial is likely to take a considerable time, further incarceration of the petitioners would be violative of their right enshrined under Article 21 of the Constitution of India and the rigors of Section 37 of the NDPS Act can be

diluted bearing in mind the right to a speedy trial, the present petitions are allowed.

10. The petitioners are ordered to be released on regular bail, subject to furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned, if not required in any other case and shall abide by the following conditions:-

- (i) The petitioners will not tamper with the evidence during the trial.
- (ii) The petitioners will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioners will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioners shall not commit an offence similar to the offence of which, they are an accused, or for commission of which they are suspected of.
- (v) The petitioners 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.
- (vi) The petitioners shall not in any manner misuse their liberty.
- (vii) The petitioners shall furnish their addresses and mobile numbers by way of an affidavit to the trial Court and not change the same till conclusion of trial and if for any reasons, they seek to change either of the aforesaid, it shall be done only with prior information to the learned trial Court.
- (viii) The petitioners shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioners.

11. It is made abundantly 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 petitioners by this order.

12. In view of the above, it is clarified that the observations made herein above are limited for the purpose of present proceedings and would not be

construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

13. Photocopy of this order be placed on the connected file.

26.02.2026
ashok

(AMAN CHAUDHARY)
JUDGE

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