

2026:PHHC:022251



245 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

**CRM-M-65734-2025**  
**Date of Decision: 12.02.2026**

Nilesh Kumar ...Petitioner

## Versus

State of Punjab ...Respondent

**CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY**

**Present:** Mr. Gaurav Kalsi, Advocate for the petitioner.

Mr. Gurdeep Singh, AAG, Punjab.

\*\*\*

**AARADHNA SAWHNEY, J. (ORAL)**

1. By virtue of the present petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No.19 dated 20.05.2025 registered against him, for commission of offences punishable u/s 18/27 the NDPS Act at Police Station GRP Pathankot, District Pathankot, has prayed for grant of bail.

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

“On 20.05.2025, based on chance recovery, police officials of police station GRP Pathankot, Distt. Pathankot, seized 1 Kg. 400 grams ‘Opium’ from the possession of the present petitioner. After completing with the requisite statutory formalities, ruqa was sent to the police station, on the basis of which, above mentioned FIR was came to be registered against petitioner, who was arrested at the site.

3. An application for grant of bail moved by petitioner, was dismissed by Ld. Judge, Special Court, Pathankot vide order dated 30.07.2025.

Aggrieved of which, the present petition has been filed.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. Requisite statutory formalities were not adhered to by the police team. The very fact that the police team arrested the petitioner from a public place for allegedly keeping in his illegal possession contraband/prohibited drugs, but did not make any effort to involve any independent witness as a 'witness' to the case proceedings raises serious doubt on the genuineness of the story put-forth by them.

Learned counsel further submits that petitioner, who has been in custody since 20.05.2025 and whose past antecedents are clean (being not involved in any criminal case), deserves a lenient view to be taken in his favour as possibility of completion of trial in the near future, is quite remote for though as investigation is complete, challan has been presented, charges have been framed but no prosecution witnesses have been examined. Thus, in the factual scenario as above, his(P) further incarceration would not serve any useful purpose and would also be violative of Fundamental rights guaranteed under Article 21 of the Constitution of India. Primarily with this submission, prayer for allowing the petition has been made.

5. *Per contra*, learned State counsel, while filing the custody certificate of the petitioner, has opposed the request for grant of bail on the ground that the police team caught the petitioner red handed while keeping in his illegal possession 01 Kg. 400 grams 'Opium'. Learned State counsel fairly admits that contraband recovered in the present case falls within the 'Intermediate Quantity', but opposes the request on the ground that if granted the concession of bail, the likelihood of petitioner indulging in similar offence and fleeing from process of justice by not appearing in the Court cannot be ruled out. Drug menace being on the rise needs to be dealt with strictly.

Learned State counsel also admits that the past antecedents of the petitioner are quite clean.

6. I have heard the learned counsel for the parties and have gone through the documents on record.

7. Whether statutory procedures were complied with or not is a question which would be decided during the course of trial based on the evidence adduced on the case file. It has been noticed that past antecedents of the petitioner are clean (being not involved in any criminal case).

When appreciated in the light of the facts that have been brought on record, the Court is of the opinion that no useful purpose would be served by further detention of the petitioner, as the same, without the prospect of trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial and would, thus, also be against the principle of “*Bail is a general rule and incarceration is an exception*” as held by Hon’ble Supreme Court in ***Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131.***

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.

Resultantly, 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.

**12.02.2026**  
*Parveen kumar*

**(AARADHNA SAWHNEY)**  
**JUDGE**

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