



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

CRM-M No.66185 of 2025 (O&M)

Date of Decision: 19.02.2026

Shiv Kumar @ Sonu

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

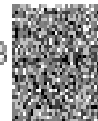
Present: Mr. Lakshay Bector, Advocate for the petitioner.

Mr. Eklavya Darshi, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

This petition, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023, is the first petition, filed by the petitioner for grant of bail. The above mentioned petition pertains to a case arising out of FIR No.104 dated 16.12.2024, under Sections 105 [Section 27 of NDPS and Section 3(5) of BNS added later on] of Bharatiya Nyaya Sanhita, 2023, hereinafter being referred to as 'BNS', Police Station Dabba, District Ludhiana.

2. In nut-shell the facts emerging from record are that the above mentioned FIR came into being in the backdrop of the fact that on 16.12.2024 'Darshana Rani' got her statement recorded, wherein she stated that her younger son namely Gurpreet Singh @ Sonu aged about 25 years was residing with her and that he was a driver by profession in a factory. According to complainant in usual course Gurpreet Singh @ Sonu used to leave home at about 8/9 A.M. and returned by 6/7 P.M. As per complainant on 15.12.2024 his son did not return home, and therefore, she got suspicious that he might have



taken drugs with his friends.

3. The above mentioned complainant further stated that at about 09:00 P.M. one Sikh boy along with an unknown person brought her son in an unconscious state and told her that Gurpreet Singh @ Sonu had lost conscious on account of overdose of drugs. According to complainant, thereafter, the above said boy left Gurpreet Singh @ Sonu at home and that she found that her son the body temperature of his son was declining and therefore, she called her neighbourers and shifted her son to Civil Hospital, where he was declared dead.

4. It is the case of the prosecution that in view of above mentioned statement, formal FIR of this case was lodged, and the investigation taken up. According to prosecution during the course of investigation the petitioner was arrested.

5. Notice of motion.

6. Since advance notice has already been served, Mr. Eklavya Darshi, DAG, Punjab, appears on behalf of respondent-State. Hence, service of notice upon the State is hereby dispensed with.

7. The learned State Counsel has filed custody certificate of the petitioner and reply by way of affidavit of Assistant Commissioner of Police, Industrial Area-B, Ludhiana. The same be taken on record.

8. Heard.

9. It has been contended by learned counsel for the petitioner that petitioner is innocent having no nexus, whatsoever, with the commission of crime and that during the course of investigation any evidence which can be termed to



be legally admissible has not been collected, by the Investigating Agency, against the petitioner.

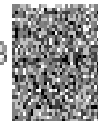
10. In addition to above, the learned counsel for the petitioner has also argued that otherwise also the petitioner has already suffered a prolonged incarceration for being in custody for a period of almost 1 year and 2 months, and that nothing is left to be recovered from the possession of accused. According to learned counsel for the petitioner the trial is not likely to be concluded in near future, and therefore, further incarceration of the petitioner will breach his fundamental rights. As per learned counsel for the petitioner in the above mentioned prevailing circumstances, the petitioner is entitled for the benefit of bail.

11. The learned State counsel has controverted the above mentioned arguments. According to learned State counsel in the present case, there are very specific and categorical allegations against the petitioner, that he administered drug to the deceased, and death of the deceased had taken place due to overdose of the same. As per learned State counsel, the petitioner is not only responsible for the death of Gurpreet Singh @ Sonu by drug overdose, but also for being in possession of drug, and that in the above mentioned circumstances, the petitioner is not entitled for the benefit of bail.

12. The record has been perused carefully:-

13. A perusal of the record shows that following are the relevant factors which are required to be taken into consideration for the purpose of decision of present petition:-

- i) that the petitioner is already in custody for a period of almost 1 year and 2 months;



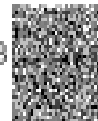
- ii) that the investigation in this case is already complete and nothing is left to be recovered from the possession of petitioner;
- iii) that trial pertaining to instant case is not likely to be concluded in near future;
- iv) that there is no direct evidence to show nexus between the petitioner and the commission of crime;
- v) that case of the petitioner comes within the ambit of Section 105 BNS, for which the maximum punishment is imprisonment for 10 years;
- vi) that detention of petitioner in judicial lock-up is not likely to serve any purpose;
- vii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- viii) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

14. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, are relevant, wherein it has been observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is



another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

15. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil v. Central Bureau of Investigation’ (2022) 10 SCC 51 are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal



with continued custody would be a case of grave injustice”.

16. Recently, in the case of ‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has observed that “if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that “delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

17. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to an undertrial prisoner, as mandated by Hon’ble Apex court in ‘Balwinder Singh versus State of Punjab and another’ 2024 SCC Online SC 4354.

18. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession of bail, and that the present petition deserves to be allowed.

19. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered

to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However, the abovesaid benefit shall be subject to following conditions:-

- i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court or to any other authority;
- ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- iii) that the petitioner shall not leave India without prior permission of trial Court.

(SURYA PARTAP SINGH)
JUDGE

19.02.2026
Manoj Bhutani

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