

CRM-M-68017-2025

2026:PHHC:002057



243

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-68017-2025

Kirandeep Kaur @ Kiranjit Kaur

....Petitioner

versus

State of Punjab

....Respondent

Date of decision: January 12, 2026

Date of Uploading: January 12, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. P.S. Sekhon, Senior Advocate with
Mr. Rajdeep Singh Gill, Advocate for the petitioner.

Mr. Hemant Aggarwal, AAG Punjab.

SUMEET GOEL, J. (ORAL)

Present second petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No.201 dated 18.05.2025, registered for the offences punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Section 223 of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS'), at Police Station City Barnala, District Barnala.

2. The gravamen of FIR in question is that the petitioner is an accused of being involved in an FIR pertaining to NDPS Act involving alleged recovery of 12 strips of intoxicant capsules, labeled Signore

CRM-M-68017-2025

(Pregabalin Capsules IP 300 mg.), each strip containing 15 capsules, 180 capsules in total and 6 strips of intoxicant tablets, labeled 'ETI-0.5' (Etizolam Tablets IP), each strip containing 10 tablets, 60 tablets in total, from co-accused, namely, Mandeep Singh; and the said co-accused nominated the petitioner in this case.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 18.05.2025. Learned counsel has further submitted that mandatory provisions of the NDPS Act have not scrupulously been complied with, and thus, the prosecution case suffers from inherent defects. Learned counsel has further iterated that sole basis to array the petitioner as an accused is the disclosure statement of co-accused, namely Mandeep Singh. Learned counsel has further iterated that the petitioner has suffered incarceration for more than 07 months. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, thus, the petitioner does not deserve the concession of the regular bail. Learned State counsel has further submitted that the instant bail plea is barred by the rigors of Section 37 of the NDPS Act, and thus, the same ought to be dismissed. Learned State counsel seeks to place on record the custody certificate dated 11.01.2026, in the Court today, which is taken on record.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. The petitioner was arrested on 18.05.2025 whereinafter, investigation was carried out and the challan *qua* the petitioner has been presented on 13.11.2025. Total 14 prosecution witnesses have been cited,

CRM-M-68017-2025

but none has been examined till date. The petitioner has been implicated as an accused in the FIR in question solely on the basis of disclosure statement of co-accused, namely, Mandeep Singh. As per prosecution version, there is no other material available to connect the petitioner with the contraband except for the said disclosure statement. It is pertinent to note that such disclosure statements, in the absence of corroborative evidence hold limited evidentiary value and cannot be sole basis for implicating the petitioner. The reliance on this unsubstantiated statement raises serious doubts about the fairness and objectivity of the investigation. It is not in dispute that the petitioner was not present at the spot. The veracity and weightage required to be attached to the disclosure statement made by the co-accused will be fully tested at the time of trial. The rival contentions raised at Bar give rise to debatable issues, which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, *lest* it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1. At this juncture, it would be apposite to refer to a judgment passed by this Court in *Anshul Sardana versus State of Punjab*, passed in **CRM-M-65094-2024** (2025: PHHC:004198), wherein, after relying upon the *ratio decidendi* of the judgments of the Hon'ble Supreme Court in Tofan Singh versus State of Tamil Nadu, AIR 2020 Supreme Court 5592; Smt. Najmunisha, Abdul Hamid Chandmiya @ Ladoo Bapu versus State of Gujrat, Narcotics Control Bureau, 2024 INSC 290; State by (NCB)

CRM-M-68017-2025

Bengaluru vs. Pallulabid Ahmad Arimutta & Anr.', 2022 (1) RCR (Criminal) 762; and Vijay Singh vs. The State of Haryana, bearing Special Leave to Appeal (Crl.) No.(s) 1266/2023, decided on 17.05.2023, has held thus:

“6.3 It is a well established principle of law that a confession made by a co-accused under Section 67 of the NDPS Act is inherently a very weak piece of evidence. Such statement(s), by themselves, cannot form the sole basis for the conviction of an individual and must be scrutinized with utmost caution in conjunction with other substantive evidence. Moreover, no recovery has been effected from the possession of the petitioner, who has been subsequently implicated as an accused solely on the basis of disclosure statement of the co-accused. However, as regular bail pertains to life and liberty of individual, Courts are obligated to strike a balance between safeguarding personal liberty and ensuring the effective administration of justice as also investigation. The final evidentiary value and admissibility of the disclosure statement made by a co-accused fall within the domain of the trial Court and are to be adjudicated during the course of the trial in accordance with established principles of law. However, while adjudicating a plea for regular bail, this Court cannot remain oblivious to the circumstances under which the petitioner has been arraigned or implicated, including the nature of the allegations, the evidence linking the petitioner to the offence as well as the specific role attributed to the petitioner in the commission of the alleged offence. A prima facie examination of these factors is essential to ensure that the process of law is not misused, abused or misdirected.”

6.2. As per custody certificate dated 11.01.2026 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of 07 months & 22 days, & is not involved in any other FIR(s). In this view of the matter, the rigor imposed under Section 37 of the NDPS Act stands diluted in light of the Article 21 of the Constitution of India.

6.3. The petitioner is a lady aged about 37 years (as per memo of parties), hence, bail petition ought to be considered in view of proviso to Section 480(2) BNSS. It is pertinent to mention herein that the proviso to Section 480 BNSS, 2023, is *pari materia* with proviso to Section 437 Cr.P.C., 1973. In this regard, it would be apposite to refer herein to a judgment passed by this Court on 14.03.2024 in **CRM-M-11503-2024** titled

CRM-M-68017-2025

as '**Ravinder Kaur Vs. State of Punjab**' (dealing with proviso to Section 437

Cr.P.C.), relevant thereof reads as under:

“It would be apposite to refer herein to the dicta of a judgment of the Hon'ble Supreme Court in a case of 'Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., 2022(10) SCC 51', which held as under: 51. Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offenses are poor and illiterate. In many cases, upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

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58. Section 437 of the Code empowers the Magistrate to deal with all the offenses while considering an application for bail with the exception of an offense punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is a woman or is sick or infirm, as discussed earlier. This being a welfare legislation, though introduced by way of a proviso, has to be applied while considering release on bail either by the Court of Sessions or the High Court, as the case may be. The power under Section 439 of the Code is exercised against an order rejecting an application for bail and against an offence exclusively decided by the Court of Sessions. There cannot be a divided application of proviso to Section 437, while exercising the power under Section 439. While dealing with a welfare legislation, a purposive interpretation giving the benefit to the needy person being the intendment is the role required to be played by the court. We do not wish to state that this proviso has to be considered favourably in all cases as the application depends upon the facts and circumstances contained therein. What is required is the consideration per se by the court of this proviso among other factors.”

6.4. Indubitably, the present petition is the second attempt by the petitioner to secure regular bail. The last bail plea was dismissed as withdrawn on 08.10.2025. However, keeping in view the entirety of the factual matrix of the case in hand; especially, factum of the petitioner having suffered extended incarceration for more than 03 months & pace of trial; this Court is inclined to affirmatively consider the instant plea for bail. A

CRM-M-68017-2025

profitable reference, in this regard, can be made to a judgment of this Court passed in ***CRA-S-2332-2023*** titled as ***Rafiq Khan versus State of Haryana and another***, relevant whereof reads as under:

“10. As an epilogue to the above discussion, the following principles emerge:

I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned trial

CRM-M-68017-2025

Court/Duty Magistrate, the petitioner shall remain bound by the following conditions:

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent herself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit her passport, if any, with the trial Court.
- (vi) The petitioner shall give her cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change her cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.
- (viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that she has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after her being enlarged on bail in the present FIR, on the basis of her affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of her bail which plea, but of course, shall be ratiocinated upon merits thereof.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned trial Court/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

CRM-M-68017-2025

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

January 12, 2026
mahavir

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