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

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Date of decision : 04.02.2026

Gurmeet Kaur @Rajni

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Arunjeet Singh Kakkar, Advocate for the petitioner.

Mr. I.P.S. Sabharwal, DAG Punjab.

SURYA PARTAP SINGH, J. (oral)

This is first petition for bail filed by the petitioner with regard to FIR No.246 dated 11.06.2025 under Sections 22(c) and 29 of 'Narcotic Drugs and Psychotropic Substances Act', hereinafter being referred to as 'NDPS Act', Police Station City Faridkot, District Faridkot. The abovementioned FIR came into being when chance recovery of contraband took place from the possession of Gurpreet Singh @Gopi and Kulwant Kaur, who was intercepted during the course of patrolling by a police party. As per prosecution, 3500 tablets of Tramadol Hydrochloride, total weighing 556.5 gms, were recovered.

2. It is the case of the prosecution that pursuant to abovementioned recovery of contraband, the abovementioned FIR was lodged against the abovementioned accused and they have been duly prosecuted.

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3. The prosecution has further alleged that during the course of investigation, when the abovementioned accused were interrogated, they suffered a disclosure statement, wherein they disclosed the name of present petitioner, as a supplier of intoxicating tablets, to them, for further supply and sale.

4. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record.

5. Heard.

6. It has been contended on behalf of petitioner that petitioner is innocent having no nexus, whatsoever, with the commission of crime. The learned counsel for the petitioner has contended that the petitioner has already suffered a prolonged incarceration for being in custody for a period of more than four months. As per learned counsel for the petitioner, nothing has been recovered from the possession of petitioner, and that he is being implicated merely on the basis of disclosure statement of co-accused, which is not admissible in evidence.

7. *Per contra*, the learned State Counsel has contended that in the present case, the recovery of contraband from the possession of co-accused comes within the ambit of 'commercial quantity' as the weight of 3500 tablets came out to be 556.5 gms, which is more than doubled the lower threshold meant for commercial quantity of abovementioned substance.

8. In addition to above, the learned State Counsel has also contended that the direct nexus between the petitioner and the main accused stands proved from the fact that the petitioner was in constant touch, through

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her mobile, with the main accused, and her call details shows numerous calls between them.

9. With regard to abovementioned arguments of learned State Counsel, the learned counsel for the petitioner has contended that the mobile phone although belonged to the petitioner, but it was being used by her husband, and that the husband of petitioner is already in custody.

10. The record has been perused carefully.

11. To deal with given fact-situation, the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Vijay Singh Vs. The State of Haryana' 2023 SCC OnlineSC 1235 are relevant. In the abovementioned case, the petitioner was not present on the spot at the time of recovery and he was implicated solely on the basis of statement of co-accused. The Hon'ble Supreme Court of India in the above mentioned case afforded the benefit of bail to the accused.

12. Similarly, in the case of 'Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence' 2018(8) SCC 271, it has been held by the Hon'ble Supreme Court of India that the disclosure statement of co-accused is inadmissible against another accused, as the disclosure statement is not a substantive piece of evidence against other accused.

13. Similar principle has been laid down by the Hon'ble Supreme Court of India in the case of 'Preet Kamal Vs. State of Punjab', 2018(4) RCR (Criminal) 938, wherein it has been held that the disclosure statement



of an accused can be used only against the person making the same, and not against the co-accused.

14. In 'Tofan Singh Vs. State of Tamil Nadu', 2021(4) SCC 1 also, it has been observed by the Hon'ble Supreme Court of India that confessional statement of accused recorded under Section 67 of NDPS Act cannot be admitted in evidence, as a confession.

15. If the facts and circumstances of the present case are analyzed in the light of above-mentioned principles of law, it transpires that:-

- (i) that the petitioner is already in custody for a period of more than 04 months;
- (ii) that the only evidence available against the petitioner is the disclosure statement of her co-accused and there is a big question mark with regard to credibility & admissibility of above-mentioned statement in evidence, as the same was recorded when the maker of it was already in police custody. Since pursuant to above-mentioned disclosure statement no recovery or discovery of fact had taken place, the same is prima facie hit by Section-23 of Bharatiya Sakshya Adhiniyam;
- (iii) that being female, the petitioner deserves a lenient view;
- (iv) that nothing is left to be recovered from possession of petitioner;
- (v) that trial is not likely to be concluded in near future;
- (vi) that name of petitioner does not figure in the FIR;
- (vii) that detention of petitioner in judicial lock up is not likely to serve any purpose;



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(viii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and

(xi) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

16. In the present case, the principles of law laid down by the Hon'ble Supreme Court in the case of "Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131, are also 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”.

17. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’, (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”.

18. 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”.

19. 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 the accused as mandated by Hon’ble Apex court in “Balwinder Singh versus State of Punjab and Another”, 2024 SCC Online SC 4354.

20. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

21. 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 abovementioned concession 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 to disclose 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



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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 the trial Court.

(SURYA PARTAP SINGH)
JUDGE

04.02.2026

Gaurav Thakur

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