



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

CRM-M-68296-2025
Decided on : 21.05.2026

Akash @ Akash Malhotra . . . Petitioner(s)
Versus
State of Punjab . . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH
PRESENT: Mr. Raghav Soni, Advocate, for the petitioner(s).

Mr. Neeraj Madaan, Sr. DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. The instant petition has been filed under Section 483 of BNSS, 2023 (earlier Section 439 Cr.P.C.), for grant of regular bail to the petitioner, during the pendency of trial, who has been booked in a criminal case arising out of First Information Report, as detailed here-under:-

Name of Petitioner(s)	FIR No.	Date	Section(s)	Police Station	District
Akash @ Akash Malhotra	95	20.04.2024	S. 21-C of NDPS Act, 1985	Jandiala	Amritsar Rural

2. As per the case of the prosecution, accused – Jagjit Singh alias Jagga, along with co-accused Sandeep Singh and Akash @ Akash Malhotra (petitioner herein), was found travelling in a car. Recoveries of heroin to the extent of 300 grams, 400 grams and 300 grams, respectively, were effected from the accused persons, including the present petitioner.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. It is argued that the mandatory provisions of Sections 42 and 50 of the NDPS Act have not been complied with in their true spirit. No independent witness was joined at the



time of search and seizure. It is further submitted that the petitioner is in custody since 20.04.2024, i.e., for the last 02 years and 24 days. Further, out of the total 16 prosecution witnesses, none has been examined so far. Thus, the trial is not likely to culminate in the near future.

Learned counsel further submits that co-accused, namely, Sandeep Singh, has already been extended the concession of regular bail by the Coordinate Bench of this Court vide order dated 03.11.2025, passed in CRM-M-60000-2025, titled as *“Sandeep Singh v. State of Punjab”* (Annexure P-2). Thereafter, other co-accused, namely, Jagjit Singh @ Jagga, has also been granted concession of regular bail by this Court vide order dated 23.12.2025, passed in CRM-M-71452-2025 (O&M), titled as, *“Jagjit Singh @ Jagga v. State of Punjab”*.

Learned counsel very fairly submits that recoveries of 300 grams of heroin each were effected from the aforesaid co-accused, whereas recovery of 400 grams of heroin has been attributed to the present petitioner. In support of his contention, learned counsel has produced a copy of order dated 23.12.2025, which is taken on record.

4. Learned counsel also fairly admits that there are three other cases registered against the petitioner under the NDPS Act or other penal provisions. The details of which are as under:-

Sr. No.	Case details	Status
1.	FIR No.89 dated 21.08.20214, u/s 21 of NDPS Act, PS Maqboolpura, Amritsar City	Sentence undergone on 01.09.2015.
2.	FIR No.11 dated 02.02.2023, u/s 13-A of Gambling Act, PS A-Division, Amritsar City	Fine Paid & Released on 20.09.2025
3.	FIR No.176 dated 11.07.2020, u/s 21 & 29 of NDPS Act, PS Gate Hakima, Amritsar City	Under trial.



In this regard, learned counsel submits that in one of the NDPS cases, there was recovery of 5 grams of heroin, which falls within the category of 'small quantity', and petitioner has already undergone the sentence awarded therein. As regards the other NDPS case, it is submitted that recovery of 50 grams of heroin was effected and petitioner has already been granted concession of bail therein. It is further submitted that till date, no finding of conviction has been recorded against the petitioner in the said case.

Accordingly, on the ground of parity and in view of the aforesaid circumstances, learned counsel prays that petitioner also deserves to be extended the concession of regular bail.

5. On the other hand, learned State counsel has filed the custody certificate and status report dated 20.05.2026 in Court today, which are taken on record. Office is directed to tag the same at the appropriate place.

Copies thereof have been handed over to the counsel for the petitioner.

6. Learned State counsel, while opposing the prayer for bail, submits that commercial quantity of contraband has been recovered from the petitioner. Therefore, in view of the bar contained under Section 37 of the NDPS Act, petitioner is not entitled to the concession of regular bail. However, learned State counsel does not dispute the factual assertions made here-above by the petitioner's counsel.

7. I have heard learned counsel for the parties and have perused the material available on record with their able assistance.

8. Undoubtedly, recovery attributed to the petitioner falls within the category of commercial quantity and the rigours of Section 37 of the



NDPS Act are, therefore, attracted. However, it is equally not disputed that petitioner has remained in custody since 20.04.2024, i.e., for a period of 02 years and 24 days (as per custody certificate), and out of total cited 16 prosecution witnesses, none has been examined so far, which clearly indicates that the trial is progressing at a slow pace and is not likely to conclude in the near future.

It is also a matter of record that similarly situated co-accused, namely, Sandeep Singh and Jagjit Singh @ Jagga, from whom recoveries of 300 grams of heroin each were effected, have already been granted concession of regular bail by the Coordinate Bench of this Court as well as by this Court. Though recovery of 400 grams of heroin has been attributed to the present petitioner, yet the entire recovered contraband from all the accused persons falls within the commercial category.

Thus, petitioner is also entitled to seek the benefit of parity, particularly when no material has been placed on record to demonstrate that his case stands on a footing materially different from that of the aforesaid co-accused.

So far as the previous criminal cases registered against the petitioner are concerned, it is not disputed that in one case, petitioner has already undergone the sentence awarded, whereas in the other NDPS case, he has already been granted concession of bail and no conviction has been recorded against him till date. Mere pendency of criminal cases, in the absence of any finding of guilt, cannot by itself be a determinative factor to deny concession of bail.

9. Taking into consideration the totality of the facts and circumstances, including the prolonged period of incarceration already



undergone by the petitioner, delay in commencement of trial, and the grant of bail to similarly situated co-accused, this Court is of the considered opinion that further detention of the petitioner inside the jail would not serve any useful purpose. Accordingly, the present case is found to be a fit one for grant of regular bail, notwithstanding the bar under Section 37 of the NDPS Act.

Consequently, prayer made in the present petition is **allowed**. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

10. Needless to observe that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

11. The observation made here-in-above shall not be construed as an expression of opinion on the facts of the case and the Trial Court is expected to decide the case on the basis of complete evidence available on record.

12. It is further made clear that if, in future, petitioner is directly found indulged in similar kind of activities, this order shall be deemed to be cancelled.

13. Petition stands **disposed of**.

Misc. application(s), if any, also stand(s) disposed of.

(SANJAY VASHISTH)
JUDGE

May 21, 2026

J.Ram

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