



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

227

CRM-M No.67768 of 2025 (O&M)
Date of Decision: 28.01.2026

Avinash @ Avinash Kumar

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Tajinder Pal Singh Makkar, Advocate for the petitioner.

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

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 21 (C), 27 and 29, of Narcotic Drugs & Psychotropic Substances Act, 1985, hereinafter being referred to as NDPS Act', the FIR No.04 dated 02.01.2025, has been lodged in Police Station City Malout, District Sri Muktsar Sahib. The petitioner has been arrested in the above mentioned case as an accused. Since the petitioner is in custody, he has filed the present petition for the benefit of bail. This is second petition for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Briefly stated the facts emerging from record are that the FIR of this case came into being at the instance of 'ASI Savinder Singh', who had reported that on 02.01.2025 when a police party headed by 'ASI Prabhjot' was discharging its patrolling duty near the main gate of cotton market 4 persons



riding on two wheeler were spotted. According to above named police officer when the above said persons noticed the presence of police party they tried to escape abruptly. In view of above mentioned suspicious behaviour they were apprehended who disclosed their names as 'Savtaj Bhatti', 'Jashan', 'Gaurav Kumar' and 'Avinash'. It has been further alleged by the prosecution that, while complying with the necessary instructions enshrined under NDPS Act, when the search of person of above said persons were undertaken from them 260 grams of 'heroin' kept in a transparent packet was recovered.

3. It is the case of the prosecution that on recovery of above mentioned contraband the requisite formalities with regard to seizure and sealing of contraband, slapping of FIR and formal arrest of petitioner and further investigation were undertaken.

4. Learned State Counsel has filed custody certificate of the petitioner and reply by way of affidavit of Deputy Superintendent of Police, Sub Division Malout. The same be taken on record.

5. Heard.

6. It has been contended by learned counsel for the petitioner that petitioner has clean antecedents, except one case under NDPS Act, and he has already faced the agony of prolonged custody for being in custody for a period of more than 1 year. According to learned counsel for the petitioner the trial is taking place at a very slow pace as out of 39 only 1 witness has been examined so far.

7. In addition to above, the learned counsel for the petitioner has also



contended that former bail petition moved by the petitioner was not decided on merits, and therefore, the second petition for bail is maintainable.

8. Per contra, the learned State counsel has contented that petitioner is the person from whose custody the contraband has been recovered. According to learned State counsel the recovery of contraband comes within the ambit of commercial quantity, and therefore, the petitioner cannot be released on bail.

9. The record has been perused carefully.

10. 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 in the present case there are very specific and categorical allegations against the petitioner that he was present on the spot and from his possession as well as from the possession of his co-accused 260 grams of 'Heroin' was recovered;
- ii) that the above mentioned quantity comes within the ambit of commercial quantity and therefore, without satisfying the rigors enshrined under Section 37 of NDPS Act, the benefit of bail cannot be afforded to the petitioner; and
- iii) that the former bail petition of the petitioner was dismissed on 02.09.2025 and from the date of dismissal of former bail petition no significant change in circumstances have taken place;

Taking into consideration the cumulative effect of all the



abovementioned factors, it is hereby observed that the present petition is devoid of merit and deserve dismissal. Hence the same is hereby dismissed accordingly.

(SURYA PARTAP SINGH)
JUDGE

28.01.2026
Manoj Bhutani

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