

In the High Court of Punjab and Haryana, at Chandigarh**Criminal Misc. No. M-69529 of 2025****Date of Decision: 24.02.2026**

Vikram

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.Present: Mr. Puneet Kumar Bansal, Advocate
for the petitioner(s).Mr. Eklavya Darshi, Deputy Advocate General,
Punjab.**Surya Partap Singh, J.**

1. This petition is the first petition for bail, filed by the petitioner under Section 483 of 'the Bharatiya Nagarik Suraksha Sanhita, 2023'. It has been filed with regard to a case arising out of FIR No. 26 dated 05.08.2023 for the commission of offence punishable under Section(s) 21-C and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section(s) 25 of the Arms Act, Police Station SSOC, Fazilka, District Fazilka, Punjab.

2. Briefly stating the facts emerging from record are that the above mentioned FIR came into being at the instance of 'Inspector Baldev Singh'. It was reported by the above-named Inspector that a tip-off was given to him by a reliable source that 'Veer Singh' alias 'Veeru' and 'Gagga Gill' alias 'Gagan' alias 'Kali' were involved in the trading of 'Heroin', arms and ammunitions, and that they were in contact with smugglers across the

Pakistan border. It was further informed by the above-named police official that he acted upon the above-mentioned tip-off, and when the above-said persons were going towards 'Kile Wala Chowk Ferozepur', on a motorcycle, apprehended them.

3. It is the case of the prosecution that when search of the above-mentioned persons was conducted 41 kgs. & 800 grams of 'Heroin' and three pistols along with live cartridges were also recovered from their possession. According to prosecution, once the recovery of contraband had taken place, the necessary formalities with regard to sealing & seizure of contraband & arms, lodging of FIR and arrest of accused were undertaken and further investigation initiated.

4. It is the case of the prosecution that during the course of investigation when 'Gagga Gill' alias 'Gagan' was interrogated, he suffered a disclosure statement wherein he nominated the present petitioner by stating that the contraband, which was found in his possession, was supplied to him by the petitioner.

5. **Notice of motion.**

6. Since advance notice has already been served upon the State, Mr. Ramender Singh Chauhan, Assistant Advocate General, Haryana accepts notice on behalf of respondent-State. Hence, service of notice upon the State is hereby dispensed with. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record. However, no formal reply has been filed by the State, and the learned State counsel has orally opposed the present petition.

7. **Heard.**

8. The record has been perused carefully

9. A careful perusal of record shows that in the present case, following are the relevant factors which are necessary to be taken into consideration for a decision:-

- i) that the petitioner is already in custody for a period of two years & six months;
- ii) that although the recovery of contraband in the present case is from the co-accused, namely 'Veer Singh' alias 'Veeru' and 'Gagga Gill' alias 'Gagan' alias 'Kali' and the above-mentioned quantity comes within the ambit of commercial quantity yet nothing has been recovered from the possession of petitioner. Thus rigors of Section-37 of the NDPS Act are not attracted qua petitioner;
- iii) that the only allegation against the petitioner is that during the course of investigation of this case, when contraband was recovered from the main accused, i.e. 'Gagga Gill' alias 'Gagan', he suffered a disclosure statement and nominated the present petitioner;
- iv) that there is question mark with regard to credibility of disclosure statement suffered by co-accused as the same was recorded when he was in custody and pursuant thereto no discovery of fact has taken place;
- v) that the most glaring fact to be noted in the present case is that the recovery of contraband had taken place on 05.08.2023 but the custody certificate of the petitioner

shows that much prior to that, i.e. since 25.01.2022 the petitioner was in custody in some other case. It is difficult to believe that a person who is already in custody for the last 1½ year would be instrumental in supply, sale or purchase of contraband;

- vi) that nothing has been left to be recovered from the possession of petitioner;
- vii) that further detention of the petitioner is not likely to produce a fruitful result;
- viii) that there is nothing on record to show that while on bail, the petitioner is likely to tamper with the evidence or influence the witnesses; and
- ix) that there is nothing on record to show that while on bail, the petitioner will not participate/cooperate in the investigation.

10. With regard to the legal aspect involved in the instant case, it is relevant to mention that the Hon'ble Supreme Court of India in the case of 'Dataram v. State of Uttar Pradesh and Another' (2018) 3 Supreme Court Cases 22, has 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.”

11. 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 Supreme Court Cases 51, are also relevant in this case. In the above mentioned 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.”

12. Recently, in the case of ‘Tapas Kumar Palit v. State of

Chhattisgarh', 2025 SCC Online SC 322 the Hon'ble Supreme Court of India 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 above mentioned 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."

13. 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.

14. If the cumulative effect of all the above mentioned 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.

15. 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 above said concession shall be subject to following conditions:-

- a) 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;
- b) 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 conclusion of trial; and
- c) that the petitioner shall not leave India without prior permission of the trial Court.

(Surya Partap Singh)
Judge

February 24, 2026
“DK”

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