



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

226

CRM-M-69596-2025 (O&M)
Date of decision : 11.02.2026

Tarsem Singh @Golu

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Vidit Bansal, Advocate for the petitioner.

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

SURYA PARTAP SINGH, J.

This is first petition for bail filed by the petitioner with regard to FIR No.0031 dated 18.02.2023 under Sections 21(c), 29, 30, 32 and 35 of 'Narcotic Drugs and Psychotropic Substances Act', hereinafter being referred to as 'NDPS Act', Sections 307 & 201 of Indian Penal Code and Section 25 of Arms Act, Police Station Dera Baba Nanak, Gurdaspur. The abovementioned FIR came into being on 18.02.2023 at about 06:30 pm, officials of the BSF noticed suspicious movement ahead of the Border fencing, upon which warning/shots were fired. Thereafter, a thorough search was conducted a team near the fencing area, during which 19.850 kg of heroin, two pistols, six magazines, 242 live cartridges and one PVC pipe were recovered. As per prosecution, the recovered contraband and other incriminating articles were seized and handed over to Police Station Dera Baba Nanak, on the basis of which the present FIR was lodged against unknown persons and the investigation taken up.



2. It is the case of the prosecution that during the course of investigation, one accused 'Ravinder Singh @Rohit', who was already confined in another criminal case bearing FIR No.29 dated 26.03.2023 registered at Police Station Kalanaur, allegedly suffered a disclosure statement stating therein that he along with his associates, namely Karandeep, Tarsem (petitioner herein) and Jugraj had procured the aforesaid contraband and arms/ammunition from across the Border. According to prosecution, on the basis of abovesaid disclosure statement, other co-accused were nominated in the present FIR.

3. **Notice of motion.**

4. Mr. I.P.S. Sabharwal, DAG, Punjab appears 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. No formal reply has been filed by the State and the learned State counsel has opted to orally oppose the present petition.

5. Heard.

6. The record has been perused carefully.

7. 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 abovementioned case afforded the benefit of bail to the accused.

8. 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.

9. 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.

10. 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.

11. 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 one year and two months;
- (ii) that the only evidence available against the petitioner is the disclosure statement of his 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 took place, the same is prima facie hit by Section-23 of Bharatiya Sakshya Adhiniyam;

(iii) that name of the petitioner does not figure in the FIR

(iv) that the trial is taking place at a very slow pace as out of 22 prosecution witnesses, none has been examined so far;

(v) that nothing is left to be recovered from possession of petitioner;

(vi) that detention of petitioner in judicial lock up is not likely to serve any purpose;

(vii) 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

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

12. 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.

13. 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.



14. 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 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

11.02.2026

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No