



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-71373-2025 (O&M)

Date of decision: 17.03.2026

Varinder Singh @ Gabbar

...Petitioner(s)

VERSUS

State of Punjab

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Puneet Bali, Advocate for the petitioner(s).

Mr. Mohit Kapoor, Sr. DAG Punjab.

VINOD S. BHARDWAJ, J. (Oral)

1. This is a petition for grant of regular bail in case bearing FIR No.88 dated 10.07.2024 registered under Section 21-c of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 10, 11 and 12 of the Aircraft Act, 1934 at Police Station Khalra, District Tarn Taran.

2. The facts of the present case, in brief, are that a secret information was received by the police to the effect that two clean-shaven young person, travelling on a black-coloured motorcycle without a number plate, were allegedly in collusion with Pakistani smugglers and were involved in procuring heroin through drones and supplying the same locally. It was further informed that they would be present in the area of village Theh Kalan and could be apprehended if a *naka* was immediately laid at the turning point of the said village. The information was considered to be specific and reliable. Acting upon the same, a *naka* was laid at the indicated location by the police party and checking of vehicles was commenced.

During the course of checking, a black-coloured motorcycle, without a number plate, was noticed approaching, being driven by one clean-shaven person with another person seated behind him. Upon being signalled to stop, the riders became nervous and attempted to turn back but the motorcycle slipped due to high speed, resulting in their apprehension by the police party. On inquiry, the driver disclosed his identity as Varinder Singh @ Gabbar, son of Baaj Singh resident of village Bhura Kona, Police Station Khemkaran, while the pillion rider disclosed his name as Gurjant Singh @ Janta, son of Amreek Singh, resident of Ramu Wala, Police Station Khemkaran. Upon being asked to produce documents of the motorcycle, the driver failed to furnish any. Thereafter, a personal search of Varinder Singh @ Gabbar was conducted during which a yellow-coloured packet tied in a white cloth around his waist was recovered. Upon being questioned, the said accused disclosed that the packet contained heroin, which had been procured through a drone after coordinating via WhatsApp with a Pakistani smuggler. The recovered packet, upon weighing, was found to be 555 grams including packing material. On opening, it was found to contain a powder-like substance, which, upon testing with a field kit, was confirmed to be heroin. The contraband was thereafter separated, and the net weight of the heroin, including the polythene envelope, was found to be 494 grams, while the packing material weighed 62 grams. Hence, the present FIR.

3. Learned counsel appearing on behalf of the petitioner contends that the alleged secret information, forming the very basis of the case, was neither reduced into writing nor communicated to the superior officers, as mandated under Section 42 of the Narcotic Drugs and Psychotropic

Substances Act, 1985. It is submitted that such non-compliance with the statutory requirement vitiates the entire proceedings and casts a serious doubt on the prosecution case. In support of his argument, he places reliance on the judgment dated **24.03.2025** of **Division Bench** of this Court passed in **CRA-48-DBA-2004** titled as '**State of Punjab Vs. Dharminder Singh Etc.**'

The relevant paragraph thereof reads thus:

“35. A perusal of Section 42 of the NDPS Act would refer to the search of any building conveyance or enclosed place. Therefore, in cases where the access to the public is prohibited Section 42 of the NDPS Act comes into play. If a private conveyance is parked inside a private premises the protection of Section 42 of the NDPS Act is available and therefore, there was no need for the legislature to separately add the words ‘conveyance’. The position is further clarified from Section 43 of the NDPS Act which refers to the seizure and arrest in a public place or in transit. The explanation of ‘public place’ includes ‘public conveyance’. If Section 43 of the NDPS Act was to apply to both private and public conveyances inasmuch as the safeguards of Section 42 of the NDPS Act were not required to be followed, then the legislature would have used the words ‘conveyance’ in the explanation to Section 43 of the NDPS Act as against ‘public conveyance’. The position which thus emerges is that where secret information is received in terms of Section 42 of the NDPS Act, then the search of a private conveyance even in a public place/transit would require

compliance of Sections 41(1) and 42(2) of the NDPS Act i.e. the information so received must be taken down in writing and conveyed to the immediate superior officer within 72 hours. However, where the search of a public conveyance is to be conducted in a public place/transit, no such compliance is required. Whether a vehicle is a private conveyance or a public conveyance would be a question of fact in each case.

37. *Coming back to the facts of the present case, PW8-DSP Balbir Singh was present at the naka. Though there is some discrepancy regarding as to which officer present at the naka received the secret information, the said fact would have little relevance because it is the case of the prosecution that the DSP was himself present there. In this situation, though he was bound to record the said secret information into writing, he was not required to send the same to a superior officer inasmuch as Section 41(2) of the NDPS Act would come into play as held in M. Prabhulal (supra). However, in the instant case, the secret information so received by PW8-Balbir Singh was admittedly not reduced into writing which is a requirement of Section 41(2) of the NDPS Act as well as Section 42 of the NDPS Act.”*

4. Learned counsel appearing on behalf of the petitioner further contends that even though the charges were framed on 23.01.2025, however, the prosecution evidence has not yet been concluded. It is submitted that the trial is thus progressing at a slow pace, thereby prolonging the custody of the petitioner. He further argues that Section 37 of the Narcotic Drugs and

Psychotropic Substances Act, 1985 does not constitute an absolute bar to the grant of bail. In the present case, in view of the alleged non-compliance with the mandatory provisions of Section 42 of the Act, the embargo under Section 37 stands diluted, thereby entitling the petitioner to consideration for grant of bail.

5. Learned State counsel, however, refers to the short reply filed by way of affidavit dated 16.03.2026 of Mr. Preetinder Singh, PPS, Dy. Superintendent of Police, Sub-Division Valtaha, Camp at Bhikhiwind, District Tarn Taran filed in the Court today and contends that present FIR was registered on the basis of a secret information received by the police and in the given circumstances, the police officials had to act promptly and they immediately proceeded to the spot. It is submitted that, considering the exigency of the situation, the interception of the accused persons was required to be carried out forthwith and without delay. It is contended that pursuant thereto, the petitioner was apprehended and from his search 494 grams of *Heroin* was recovered and on search of the person riding as a pillion-rider i.e. Gurjant Singh @ Janta, recovery of 496 grams of *Heroin* was also effected, excluding the weight of the packaging material. On the strength of the aforesaid, it is contended that not only does the recovery effected from each of the accused fall within the ambit of “commercial quantity”, but having regard to the fact that both the accused were acting in concert and were carrying the same contraband, they would be liable for the entire recovery, which aggregates to approximately 1 kilogram of heroin.

6. Learned State counsel further contends that, in his disclosure statement, the petitioner revealed that he had been in contact with a Pakistani

smuggler, namely Jatt Sandhu, through WhatsApp numbers +974503-51126, +164698-05971 and +367057-91884. He contends that the entire consignments of contraband were being ordered through Pakistani smuggler-Jatt Sandhu and that he would inform the petitioner about the precise location for delivery after arranging transportation through drones. It is further contended that, upon receipt of such information, the petitioner would proceed to the specified location and collect the heroin so delivered. According to the State, the location was initially shared by the petitioner, and the delivery was thereafter executed at the exact coordinates through drone-based means. Learned State counsel submits that the investigation has revealed a systematic and organised modus operandi adopted by the petitioner and his associates for procuring and distributing contraband, and that a detailed procedure governing such operations has also been brought on record. The relevant extract of the status report submitted by the respondent-State reads thus:-

“4. That during the course of the investigation, on 12.07.2024, the petitioner namely Varinder Singh @ Gabbar recorded his disclosure statement before the Investigating Officer to the effect that "Gurlal Singh son of Heera Singh, who studied with him in the Government School at Khemkaran, and both of them completed their +12 study used to meet each other. Varinder Singh got contacted by Gurlal Singh through his WhatsApp No.82649-34750 with Pakistani Smuggler Jatt Sandhu's WhatsApp Nos.+974503-51126, +164698-05971 and +367057-91884 and introduced him. Then, Gurjant Singh, who

already knew him, listened to the entire conversation and connected Gurjant Singh from his mobile No.97961-95791 with Pakistani smuggler Jat Sandhu's mobile Nos. +974503-51126, +164698-05971 and +367057-91884 and had a conversation on WhatsApp calling. They started ordering the heroin consignments from Pakistani Smuggler Jatt Sandu. When a consignment arrived, Pakistani smuggler Jatt Sandhu tells them where the consignment was to be delivered. Then, he and Gurjant Singh @ Janta sent the consignment as per the given address by Pakistani smuggler Jatt Sandhu. They ordered the first heroin consignment on 02.07.2024 through Pakistani smuggler Jatt Sandhu by sending the location near the village of Theh Kalan and on the instructions of Pakistani smuggler Jatt Sandhu, they gave these heroin packets to a vehicle parked at Adda Tahli, G.T Road, Bhikhiwind, Khemkaran, bearing Registration No.PB11-DF-5678, white colour, in which Vishal Singh son of Gurmeet Singh, resident of Loharka, District Amritsar and another unidentified youth were present. Vishal Singh gave them Rs 40,000/-, which was divided between him and Gurjant Singh. Then, on 06.07.2024, he received a call from Jatt Sandhu, a Pakistani smuggler, via WhatsApp, asking him to go near Khalra and send the location, on which, he and Gurjant Singh sent the location to Pakistani smuggler Jatt Sandhu from their mobile phone from the link road leading to village Theh Kalla, a little ahead of Khalra and Pakistani

smuggler Jatt Sandhu sent two packets of heroin via drone based on the location he had given and he and Gurjant Singh took this packets and went to his house in village Bhura Kohna and they hid both the heroin packets in his house. Then, on 10.07.2024, he received a call from Pakistani smuggler Jatt Sandhu on his mobile via WhatsApp from Pakistan that the two packets of heroin be delivered to the men sitting in a Brezza car bearing No.PB11-DF-5678 at Adda Bohar Wala Bhura Kona. He will send him the amount himself. Upon which, he called Gurjant Singh and they both ride on the Hero Splendor motorcycle and took the two packets of heroin, which they had lying around his house and reached the Bhora Kona, where the said vehicle was parked, Vishal Singh son of Gurmeet Singh, resident of Luharka, District Amritsar, was in the driver's seat, whom they already knew because they had given him a consignment of heroin once before and Vishal Singh introduced them to the young man sitting on the seat (next to the driver), saying that he is Amandeep Singh son of Daljit Singh, resident of Ward No.4, Raja Sansi, District Amritsar. They both gave him the heroin packets and came back. After some time, he received a call from Pakistani smuggler Jatt Sandhu via WhatsApp again asking him to provide the location near Khalra. They both went to the nearby village Theh Kalla on motorcycles and sent the location from his mobile phone and Pakistani smuggler Jatt Sandhu sent the first packet of heroin

via drone and then the second packet of heroin via drone to the sent location. He wrapped one packet of heroin in a white cloth and tied it to his waist and Gurjant Singh @ Janta wrapped the other packet of heroin in a yellow cloth and tied it to his waist. Then, they were coming back on the motorcycle and police apprehended them along with heroin packets. Similarly, the Disclosure Statement of accused Gurjant Singh was also recorded. On the basis of their Disclosure Statements, the accused namely Gurlal Singh alias Gabbar, Vishal Singh and Amandeep Singh have been nominated and the offence under section 29 of the NDPS Act has been enhanced in the present case vide DDR No.22 dated 12.07.2024, incorporated in Roznamcha at Police Station Khalra, District Tam Taran.

5. *That during the course of investigation, the arrest of the accused namely Gurlal Singh alias Gabbar, Vishal Singh and Amandeep Singh has been made in the present case on 01.08.2024 after obtaining production warrants from the learned Court of Illaqa Magistrate, Patti.*

6. *That during the course of interrogation of the accused Gurlal Singh, he voluntarily suffered his Disclosure Statement before the Investigating Officer to the effect that "he and Varinder Singh alias Gabbar son of Baj Singh, resident of Bhura Kohna, used to study in school together and also used to play volleyball together, due to which they got to know each other and he told Varinder Singh that he sometimes order*

heroin from Pakistani heroin smuggler Jatt Sandhu and he earns good money by supplying the heroin on his orders. If he also want to earn money like him, then he will make a direct contact with Jatt Sandhu for him. Varinder Singh agreed to him and he called Jatt Sandhu's mobile number +97450351126, +16469805971 and he kept talking to him through WhatsApp on +36705791884 and he gave Jatt Sandhu's mobile number to Varinder Singh and Varinder Singh started talking to Jatt Sandhu directly. He had introduced Varinder Singh to Jatt Sandhu"

7. *That during the course of the investigation, on 04.08.2024, the accused Amandeep Singh suffered his Disclosure Statement before the Investigating Officer to the effect that "on 10.07.2024, he and Vishal Singh son of Gurmeet Singh, resident of Luharka, at the request of Harbhej Singh son of Dharam Singh, resident of Luharka, who is the son of Vishal Singh's uncle and currently lives in the USA had gone to the village of Bhura Kona, near Bohar Wala Adda in Khemkaran area, where Varinder Singh alias Gabar and Gurjant Singh alias Janta gave them two packets of heroin and left. After getting 2 packets of heroin, Vishal Singh spoke to his cousin Harbhej Singh on Instagram and Harbhej Singh asked Vishal Singh to stay in the same area to get more substance. He and Vishal Singh started moving around in his car to pass the time. They had taken off the number plates of the car and hidden it in*

the car itself. They waited until late evening for Harbhej Singh call but when Harbhej Singh did not call, they both started going to Amritsar and then the Valtoha police came and caught them again and the police recovered 2 packets of heroin and a stolen car from their possession and registered a case against them. Similarly, the Disclosure Statements of the accused Vishal Singh and Amandeep Singh had been recorded as per law.”.

7. It is submitted by learned State counsel that although the bar contained under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 is not absolute, however, for grant of bail, in matter relating to commercial quantity, the Court to required to record its satisfaction not only with respect to the non-involvement of an accused/suspect but also with regards that the accused is not likely to commit any such offence while on bail. He contends that in the present case, the recovery having been effected from the conscious possession of the petitioner, there is no strong evidence for forming an opinion that he was not involved in the commission of the offence.

8. It is further vehemently argued that having regard to the entire gamut of the operations being undertaken, involving cross-border smuggling and procurement of contraband from Pakistan, which is stated to have been continuing since the year 2024, the matter assumes grave seriousness. It is submitted that there is no material on record to enable this Court to form an opinion that, if enlarged on bail, the petitioner would not indulge in similar activities. On the contrary, the nature and manner of the alleged operations

indicate a systematic and organised involvement. Hence, the twin conditions required to be satisfied for crossing over the bar of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 do not exist in the present case. He further contends that the petitioner is also involved in another case bearing FIR No.58 dated 10.07.2024 registered under Sections 21-C, 29 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Valtoha, District Tarn Taran.

9. A further submission has been advanced by learned State counsel by placing reliance upon the judgment of the Hon'ble Supreme Court in ***Criminal Appeal Nos.2319-2320 of 2009*** titled as '***Smt. Najmunisha Vs. The State of Gujarat and another***' and '***Abdul Hamid Chandmiya @ Ladoo Bapu Vs. The State of Gujarat and another***'. It is contended that, as per the said judgment, information received by the police can be communicated to the superior officers even *ex post facto*, depending upon the exigencies of the situation. Hence, the embargo of Section 42 of the Narcotic Drugs and Psychotropic Substances Act, 1985 as referred to in the above judgment of Division Bench relied upon by the counsel for the petitioner stands relaxed by the aforesaid judgment of the Hon'ble Supreme Court. He contends that in situations where prompt interception is necessary, the time available may not be sufficient to formally reduce the information into writing and communicate the same in advance to superior officers and that the priority of the law enforcement agency in such circumstances, is to secure the contraband and prevent the commission of offences and any procedural abrasion, unless it results in demonstrable prejudice to the accused, would not vitiate the proceedings. It is thus

contended that the alleged non-compliance of Section 42 does not, in the facts of the present case, dilute the embargo contained under Section 37 of the Act, as sought to be argued on behalf of the petitioner.

10. He further contends that even otherwise, the said aspect regarding alleged non-compliance of statutory provisions is a matter to be examined at the stage of trial upon appreciation of the entire evidence on record. It is submitted that the judgments relied upon by the petitioner pertain to cases decided after full-fledged trial and are not in the context of consideration of a bail application. It is further contended that the petitioner was taken into custody on 10.07.2024 and charges were framed on 23.01.2025. Learned counsel submits that the offence in question involves recovery of commercial quantity, for which the prescribed minimum sentence under the Narcotic Drugs and Psychotropic Substances Act, 1985 is 10 years rigorous imprisonment along with a minimum fine of Rs.10 lakhs. Hence, the custody in question cannot be said to be inordinately long. It is also submitted that the trial is progressing at a reasonable pace, inasmuch as 2 witnesses out of a total of 28 have already been examined.

11. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended with the instant petition with their able assistance as also the arguments advance by the respective parties. The judgment relied upon by both the parties have also been considered.

12. It is evident that the recovery in question is commercial not only individually but also jointly from both the accused. The nature of the operations attributed to the petitioner indicates an organised drug trade being

carried out in concert with the co-accused, involving cross-border linkages. The issue regarding compliance with Section 42 of the Narcotic Drugs and Psychotropic Substances Act, 1985 is a matter to be examined at the stage of trial, where the respondent–State would have the opportunity to furnish an appropriate explanation, if so required. At this stage, however, a perusal of the FIR indicates that the information was communicated within the police machinery as well as to the superior officers and directions were issued for further investigation. The effect thereof, on the arrest and detention as well as the recovery is not to be commented upon by this Court at the stage of consideration of petition for grant of bail.

13. Learned counsel for the petitioner has not been able to satisfy the twin conditions stipulated under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, inasmuch as there is no material available on record to indicate that the petitioner is not involved in the commission of the alleged offence. Furthermore, there is no material on the basis of which this Court can form an opinion that, if enlarged on bail, the petitioner is not likely to indulge in similar activities.

14. This court is constrained to observe that the menace of cross-border drug trafficking poses a grave threat not only to public health but also to national security and societal stability. Such activities are often carried out through well-organised networks operating across international boundaries, employing sophisticated methods, including the use of technology and unmanned systems, to evade detection. The proliferation of such illicit trade has far-reaching consequences, particularly in border States, where it undermines law and order, fuels addiction and corrodes the social fabric. It

is, therefore, imperative that stringent measures be adopted to curb this growing menace. The courts are, thus, required to remain cognizant of the larger societal interest while adjudicating such matters. Individuals found to be part of such organised networks cannot be treated lightly, as their actions have consequences extending far beyond individual culpability. They contribute to a chain of illegal activities that jeopardize the safety and well-being of society at large. Accordingly, the persons involved in cross-border drug trade must be dealt with sternly, in accordance with law, so as to serve both as a deterrent and as a means to dismantle such unlawful networks.

15. At the same time, while upholding the rule of law, the Courts must strike a balance between the rights of the accused and the collective interest of society. However, in cases where prima facie material indicates involvement in organised and cross-border narcotic operations, a strict approach is warranted, consistent with the statutory framework governing such offences.

16. In view of the aforesaid facts and circumstances and taking into consideration the minimum sentence prescribed for the alleged offence, the period of custody cannot be said to be unnecessarily harsh. Besides, the recording of evidence has already commenced before the trial court, hence, no ground for allowing the present petition is made out. Accordingly, the present petition is dismissed.

(VINOD S. BHARDWAJ)
JUDGE

17.03.2026

Mangal Singh

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