



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

CRM-M-71737-2025 (O&M)

Reserved on : 16.01.2026

Pronounced on : 20.01.2026

Shivam

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Gurpal Singh Sandhu, Advocate for the petitioner.

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

SURYA PARTAP SINGH, J.

For the commission of offence punishable under Sections 20, 27-A and 29 of 'Narcotic Drugs and Psychotropic Substances Act', hereinafter being referred to as 'NDPS Act', the FIR No.139 dated 07.09.2025 has been lodged in Police Station Lalru, District SAS Nagar. The petitioner is being prosecuted for the commission of abovementioned offence and he has been arrested. The petitioner is in custody and, therefore, craving for bail.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being at the instance of 'SI Amandeep Singh', who had reported that on 07.09.2025 at about 04:00 pm, when he was heading a police party deputed for checking of vehicles at Ambala-Chandigarh, Near



Jharmari River Village Lalru, one white colour car bearing registration No.HR51-AR-7102 came from Ambala side and the driver of the car stopped his vehicle at a distance, from the barricade. As per above-named police official, on the basis of suspicion, the abovementioned car was checked, wherein two persons were sitting. According to above-named police official, on enquiry, the driver disclosed his name as 'Shivam' (petitioner herein) and the person sitting on navigator's seat disclosed his name as 'Sagar'. The above-named police official further reported that when the abovementioned car was checked, 500 gms of narcotic substance (ganja/charas) was recovered.

3. It is the case of the prosecution that on recovery of abovementioned contraband, necessary formalities with regard to seizure & sealing of contraband, lodging of FIR, and arrest of the accused were performed, and further investigation taken up.

4. Heard.

5. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that he has been falsely implicated in the present case. It has also been argued by learned counsel for the petitioner that the contents of FIR itself shows that the Investigating Agency is not yet sure what type of narcotic substance was allegedly found in the possession of petitioner. In this regard, the learned counsel for the petitioner has pointed out that as per stand taken by the State, the recovered contraband is either ganja or charas.



6. With regard to above, the learned counsel for the petitioner has contended that the total quantity of recovered contraband is 500 gms, and that the abovementioned quantity of contraband is non-commercial quantity, irrespective of the fact whether it was charas or ganja. As per learned counsel for the petitioner, the petitioner has already suffered long incarceration for being in custody for a period of more than 04 months, and that the trial is not likely to be concluded in near future. Learned counsel for the petitioner has contended that the petitioner has no criminal antecedents.

7. The learned State Counsel has controverted the abovementioned arguments. According to learned State Counsel, huge quantity of contraband has been recovered from the possession of petitioner, and that in case of release on bail, there is every likelihood that the petitioner may repeat the offence. As per learned State Counsel the petitioner is not entitled for the benefit of bail.

8. The record has been perused carefully.

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

- i) that the quantity of contraband allegedly recovered from the possession of petitioner comes within the ambit of 'non-commercial quantity';
- ii) that as per custody certificate, the petitioner has suffered incarceration for a period of more than 04 months;
- iii) that the petitioner has no criminal antecedents;



- iv) that nothing is left to be recovered from the possession of petitioner;
- v) that detention of the petitioner in judicial lock-up is not likely to serve any purpose;
- vi) 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
- vii) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.

10. In the present case, the principles of law laid down by the Hon'ble Supreme Court in the case of "Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131, are relevant, wherein it has been 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 Vs. Central Bureau of Investigation and Another’, (2022) 10 SCC 51, are also relevant in this case. In the abovementioned 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 Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has 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 abovementioned case that “delays are



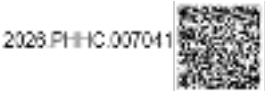
bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

13. Therefore, 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 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.

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 his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the 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

20.01.2026

Gaurav Thakur

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