



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

124

CRM-M No.72052 of 2025 (O&M)
Date of Decision: 25.02.2026

Amar @ Amar Khanna

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. L.S.Sekhon, Advocate for the petitioner.

Mr. Eklavya Darshi, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

This is first petition for bail, filed by the petitioner under Section 483 of the 'Bharatiya Nagarik Suraksha Sanhita 2023'. This petition has been filed with regard to a case arising out of FIR No.112 dated 22.03.2025, for the commission of offence punishable under Section 21-C, 27-A and 29 of Narcotic Drugs & Psychotropic Substances Act, 1985, hereinafter being referred to as 'NDPS Act', only Police Station City Faridkot, District Faridkot.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being at the instance of 'ASI Tej Singh', who had reported an incident of chance recovery of contraband. According to above named police official when he was leading a team of police officials on 22.03.2025, at about 4.30 P.M. near warehouse godown a person was apprehended on the basis of his suspicious behaviour and when the contents of polythene bag being carried by him were checked it was found that in the above mentioned bag he was carrying 253 grams 'Heroin'. As per report, on inquiry he had disclosed



his name as 'Sanjeev Kumar'

3. As per prosecution on recovery of above mentioned contraband requisite formalities with regard to seizure and sealing of contraband, slapping of FIR and formal arrest of petitioner were completed and further investigation taken-up. According to prosecution during the course of investigation the above name accused namely 'Sanjeev Kumar' suffered a disclosure statement wherein he disclosed that he had purchased the above mentioned contraband from 'Amar Khanna' (petitioner herein). According to prosecution in view of above mentioned disclosure statement the petitioner 'Amar Khanna' was arrested and from his possession 100 grams 'Heroin' and Rs. 54800/- drug money was recovered. It has been further alleged by the prosecution that once the petitioner was arrested and interrogated he suffered a disclosure statement pursuant to which 161 grams 'Heroin' was recovered from a spot identified by the petitioner.

4. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record.

5. Heard.

6. It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case, and that he has already suffered a prolonged incarceration for being in custody for a period of almost 11 months. It has also been contended by learned counsel for the petitioner that in the present case the case set out by the prosecution in itself is defective, in view of the fact that at the time of first recovery the mandatory compliance of Section 50 of NDPS Act was not made, and at the time of second recovery Section 109 BNS was not undertaken. It has also been contended by learned counsel for the petitioner that in view of above mentioned defect the prosecution case is bound to



fail.

7. In addition to above, it has also been contended by learned counsel for the petitioner that the trial is not likely to be concluded in near future, and that detention of petitioner in judicial lock-up is not likely to serve any purpose and therefore, the petitioner is not entitled for the benefit of bail.

8. The learned State Counsel has controverted the abovementioned arguments. It has been contended by learned State Counsel that in the present case the recovery of contraband from the possession of petitioner is 261 grams 'Heroin' which comes within the ambit of 'commercial quantity'. As per learned State counsel, in the instant case, unless the twin conditions enshrined under Section-37 of NDPS Act are complied with, the petitioner should not be released on bail.

9. The record has been perused carefully.

10. A perusal of record shows that in the present case although some technical defects have been pointed by learned counsel for the petitioner, but at this stage, when the prosecution evidence is yet to be recorded, any inference cannot be drawn with regard to credibility of such evidence. Here this fact cannot be ignored that the recovery of contraband from the possession of petitioner comes within the ambit of commercial quantity, and as per settled principles of law unless the twin conditions enshrined under Section-37 of NDPS Act are complied with, the petitioner cannot be accorded the benefit of bail.

In addition to above, in the present case, it is also relevant to mention here that there are 4 other cases, pending against the petitioner, wherein the petitioner has been prosecuted. Amongst the four cases three cases are under NDPS Act which shows that the petitioner does not have clean antecedents.



One more relevant aspect to be taken into consideration is that the total custody period of the petitioner is almost 11 months and the above mentioned custody period cannot be treated to be a period of such a prolonged incarceration, which may invite an inference that the right of speedy trial guaranteed to the petitioner is being infringed. Thus, it is hereby held that any situation for relaxing the twin conditions, as prescribed under Section-37 of NDPS Act, do not exist in the present petition.

11. Taking into consideration the cumulative effect of all the above mentioned factors, once any of the twin conditions enshrined under Section-37 of NDPS Act does not stand complied with, it is hereby held that the petitioner is not entitled for the benefit of bail, and the present petition being devoid of merits deserve dismissal. Hence the same is hereby dismissed accordingly.

(SURYA PARTAP SINGH)
JUDGE

25.02.2026
Manoj Bhutani

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