



CRM-M-72942-2025 (O&M)

1

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

132

CRM-M-72942-2025 (O&M)

Date of decision 19.02.2026

Markas Masih

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. N.S. Sodhi, Advocate for the petitioner.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

SURYA PARTAP SINGH, J.

This petition for bail, which is second petition, has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023. This petition has been filed with regard to a case arising out of FIR No.168 dated 04.12.2024 for the commission of offences punishable under Sections 21(c), 29 and 25 of Narcotic Drugs and Psychotropic Substances Act, hereinafter being referred to as 'NDPS Act' and Sections 10, 11, 12 of Aircraft Act and Sections 317(2) & 341(2) of Bharatiya Nyaya Sanhita, 2023, Police Station Dera Baba Nanak, District Gurdaspur.

2. Briefly stating the facts emerging from record are that, that on 04.12.2024, a team comprising of Punjab Police officers headed by



CRM-M-72942-2025 (O&M)

2

Inspector/SHO Amarjit Masih and BSF party headed by DC(G) Parshant Chauhan was on joint patrolling duty. While patrolling an informant gave a secret information and told the above-named police officer that Michel Masih s/o Yakub Masih, who was running a piggery farm on the land leased out to him by Prabhjot Singh, was involved in the trading of drugs, and that in the abovementioned illegal business, the owner of the land, namely Prabhjot Singh, 4-5 persons of Ajnala and Markas Masih (petitioner herein) were also involved.

3. It is the case of the prosecution that acting upon the abovementioned information, a raid was conducted at piggery farm, and on the spot, two persons, namely Markas Masih (the petitioner) and Michel Masih, were apprehended. According to prosecution, on search of the room, situated in the abovementioned farm from a place below the bed, one black colour bag was recovered and from the abovementioned bag 4.20 kg of Heroin was recovered.

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

5. **Notice of motion.**

6. Mr. Eklavya Darshi, Deputy Advocate General, 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



CRM-M-72942-2025 (O&M)

3

certificate of the petitioner. The same be taken on record. No formal reply has been filed by the State. However, the learned State Counsel has orally opposed the present petition.

7. Heard.

8. It has been contended by learned counsel for the petitioner that the petitioner is innocent, who has already suffering a prolonged incarceration for being in custody for a period of more than one year and two months. According to learned counsel for the petitioner, the trial is taking place at a very slow pace as the charge has been framed in this case recently, i.e. on 23.09.2025. As per learned counsel for the petitioner, the petitioner has been falsely implicated in the present case, and that nothing has been recovered from the possession of petitioner.

9. While claiming that the petitioner has clean antecedents, it has also been contended by learned counsel for the petitioner that the trial is not likely to be concluded in near future, as out of 21 prosecution witnesses only two have been examined so far. In support of his arguments, learned counsel for the petitioner has referred to the principles of law laid down by this Court in the case of 'Didar Singh @Dara V/s The State of Punjab' 2010(3) RCR (Criminal) 337.

10. The learned State Counsel has controverted the abovementioned arguments. According to State Counsel, firstly from the date of dismissal of first bail petition, no significant time has elapsed, and secondly, the quantity of contraband recovered in this case comes within the



ambit of ‘commercial quantity’, and therefore, unless the twin conditions enshrined under Section-37 of NDPS Act are satisfied, the benefit of bail should not be accorded to the petitioner.

11. The record has been perused carefully.

12. A perusal of record shows that former petition of bail moved by the petitioner was dismissed on 25.08.2025 and from the date of dismissal of former bail petition, significant time has not elapsed, which may lead to a conclusion that there is a delay in trial. Otherwise also with regard to abovesaid component there is nothing on record which can show that there is any change in circumstances.

13. In the present case, the recovery of contraband from the possession of petitioner comes within the ambit of ‘commercial quantity’, and therefore, the benefit of bail can be accorded to the petitioner only in two circumstances, firstly if the twin conditions enshrined under Section 37 of NDPS Act are complied with, and secondly, if there exist circumstances to show that the abovementioned conditions should be relaxed due to prolonged incarceration. However, in the present case, any of the abovementioned two conditions does not stand complied with.

14. As a sequel to abovementioned observations, it is hereby held that being devoid of merit the present petition, which is second petition for bail, deserves dismissal. Hence, the same is hereby ***dismissed***, accordingly.

15. However, it is clarified that the abovementioned observations shall not have any bearing upon the merits of the case.

16. Pending miscellaneous application(s), if any, also stand(s) disposed of, accordingly.

(SURYA PARTAP SINGH)
JUDGE

19.02.2026

Gaurav Thakur

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