



CRM-M-334-2026 (O&M)

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

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CRM-M-334-2026 (O&M)

Date of decision : 27.01.2026

Sarwan Singh & Anr.

..... Petitioners

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Vaibhav Narang, Advocate for the petitioners.

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

SURYA PARTAP SINGH, J. (oral)

For the commission of offence punishable under Sections 21-B, 29 and 27 of 'Narcotic Drugs and Psychotropic Substances Act', hereinafter being referred to as 'NDPS Act' and Section 238 of Bharatiya Nyaya Sanhita, 2023, the FIR No.68 dated 17.04.2025 has been lodged in Police Station Chheharta, District Police Commisionerate Amritsar. The petitioners are being prosecuted for the commission of abovementioned offence and they have been arrested. The petitioners are 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 when accused Vikramjit Singh @Dhoni was being interrogated in this case pertaining to FIR No.67 dated 14.04.2025, under Sections 21-B, 27-A, 25, and 29/61/85 NDPS Act. As per prosecution during the course of interrogation, he suffered a disclosure statement and



revealed that he was in possession of 80 grams of heroin and Rs.5000/- drug money. According to prosecution pursuant to above-mentioned disclosure statement the recovery of above-mentioned heroin was effected from the spot, stated by Vikramjit Singh @ Dhoni and the present case was lodged.

3. It is the case of the prosecution that pursuant to abovementioned recovery of contraband, the requisite formalities with regard to seizure and sealing of contraband, lodging of FIR and arrest of accused were undertaken and further investigation taken up. The prosecution has further alleged that during the course of investigation, when Vikramjit Singh @ Dhoni was further interrogated he suffered another disclosure statement, wherein he nominated the present petitioners, and stated that the petitioners were the supplier of the contraband.

4. **Notice of motion.**

5. Mr. I.P.S. Sabharwal, DAG, Punjab appears on behalf of respondent-State. Hence service of notice upon the State is hereby dispensed with.

6. Heard.

7. It has been contended on behalf of petitioners that petitioners are innocent having no nexus, whatsoever, with the commission of crime. The learned counsel for the petitioners has further contended that the petitioners have already suffered prolonged incarceration for being in custody from the date of their arrest, i.e. 22.04.2025. As per learned counsel for the petitioners, nothing has been recovered from the possession of petitioners, and that they are being implicated merely on the basis of



disclosure statement of co-accused, which is not admissible in evidence. While claiming that the trial is not likely to be concluded in near future, it has also been contended by learned counsel for the petitioners that the benefit of bail has already been afforded to the co-accused, namely Karan Khanna and Sagar @Baba, and that in the fact-situation, prevailing in the present case, the petitioners are entitled for the benefit of bail.

8. *Per contra*, the learned State Counsel has argued that allegations in the present petition are with regard to recovery of large quantity of contraband from the possession of co-accused. According to learned State Counsel, the petitioners are members of a gang operating in the area and dealing with drugs and therefore, the petitioners are equally liable for being in possession of contraband. As per learned State Counsel, being supplier of contraband, the petitioners are not entitled for the benefit of bail.

9. The record has been perused carefully.

10. 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 above mentioned 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 above mentioned case afforded the benefit of bail to the accused.

11. 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.

12. 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.

13. 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.

14. 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 petitioners is already in custody for a period of more than 09 months;
- (ii) that the only available evidence against the petitioners is the disclosure statement of their 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 has taken place, the same is prima facie hit by Section-23 of Bharatiya Sakshya Adhiniyam;



- (iii) that on the basis of parity, petitioners are entitled for bail as their co-accused, namely Karan Khanna and Sagar @Baba, have already been accorded the benefit of bail by this Court vide orders dated 13.11.2025 and 18.11.2025, respectively;
- (iv) that nothing is left to be recovered from possession of petitioner;
- (v) that trial is not likely to be concluded in near future;
- (vi) that name of petitioners does not figure in the FIR;
- (vii) that detention of petitioners in judicial lock up is not likely to serve any purpose;
- (viii) that there is nothing on record to show that if released on bail, the petitioners may tamper with the evidence or influence the witnesses; and
- (xi) that there is nothing on record to show that if released on bail, the petitioners will not co-operate/participate in the trial.

15. 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 also 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”.

16. 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”.

17. 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”.

18. 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.

19. 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 petitioners are entitled for the benefit of bail, and that the present petition deserves to be allowed.



20. Accordingly, without commenting anything on the merits of the case, the present petition is hereby ***allowed***. The petitioners are hereby ordered to be released on bail on their 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 petitioners 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 petitioners 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 petitioners shall not leave India without prior permission of the trial Court.

(SURYA PARTAP SINGH)
JUDGE

27.01.2026

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No