



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.73924 of 2025 (O&M)
Date of Decision: 13.02.2026

Pawan Kumar @ Pawan @ Kala

.....Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Anoop Kumar Yadav, Advocate for the petitioner.

Ms. Deepali Verma, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

The petitioner, who is in custody with regard to a case arising out of FIR No.254 dated 05.10.2025, under Sections 21(b) and 29-61-85 of Narcotic Drugs & Psychotropic Substances Act, 1985, hereinafter being referred to as 'NDPS Act, lodged in Police Station Sadar Dadri, District Charkhi Dadri, has filed the present petition for bail. This is first petition for bail, filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023, hereinafter being referred to as 'BNSS'.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being when ASI Rajkapoor was leading a team of police officials and on the basis of tip-off given by a reliable source intercepted a car. According to case set out by the prosecution in the above mentioned car two persons namely 'Bhawani @ Sonu' and 'Deepak' were travelling and recovery of 50 grams of 'heroin' was effected from 'Bhawani @ Sonu'.



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 undertaken. According to prosecution during the course of investigation when the accused Sonu @ Kapil was interrogated, he suffered a disclosure statement wherein he nominated the present petitioner.

4. Notice of motion.

5. Since advance notice has already been served, Ms. Deepali Verma, AAG, Haryana, appears on behalf of respondent-State. Hence, service of notice upon the State is hereby dispensed with.

6. The learned State Counsel has filed custody 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. With regard to facts of the instant case the observation in the case of 'Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence' 2018(3) SCC Online SC 757, are relevant, wherein 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.

9. 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.

10. 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.

11. The record has been perused carefully.

12. 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 at the time of recovery of contraband the petitioner was not present on the spot;
- ii) that the petitioner is already in custody for a period of 04 months and 04 days;
- iii) that name of the petitioner has been cropped up on the basis of disclosure statement of co-accused;
- iv) that the only evidence initially collected by the Investigating Agency qua petitioner was the disclosure statement of his co-accused which was made by the co-accused when he was already in police custody. Thus, there is a question mark with regard to admissibility of above mentioned disclosure statement in evidence;
- v) that nothing is left to be recovered from the possession of petitioner;



- vii) that the petitioner has clean antecedents;
- viii) that the trial is not likely to be concluded in near future;
- ix) that detention of petitioner in judicial lock-up is not likely to serve any purpose;
- x) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- xi) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

13. 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) 3 SCC 22, 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”.

14. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil v. Central Bureau of Investigation’ (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”.

15. 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”.

16. 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 an undertrial prisoner, as mandated by Hon’ble Apex court in ‘Balwinder Singh versus State of Punjab and another’ 2024 SCC Online SC 4354.

17. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession of bail, and that the present petition deserves to be allowed.

18. 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 furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However, the abovesaid benefit shall be subject to 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 from disclosing 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 trial Court.

(SURYA PARTAP SINGH)
JUDGE

13.02.2026
Manoj Bhutani

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