



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

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CRM-M-73930-2025 (O&M)
Date of decision : 20.02.2026

Malkiat Singh @Malhi

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Navkiran Singh, Advocate for the petitioner.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

SURYA PARTAP SINGH, J.

This petition for bail, which is first petition filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed with regard to a case arising out of FIR No.57 dated 27.04.2024, for the commission of offence punishable under Sections 21(c), 25, 27-A and 29 of Narcotic Drugs and Psychotropic Substances Act, hereinafter being referred to as 'NDPS Act', Police Station Division No.1, District Jalandhar.

2. The abovementioned FIR came into being at the instance of 'SI Sukhraj Singh', who had reported that on 27.04.2024, when he was heading a team of police officials, deputed for patrolling duty, at Bhagat Singh Colony bypass he spotted one Innova Car bearing Registration No.PB08-BS-2958 heading towards GT road. As per above-named police officer for the purpose of usual checking, when he signalled the car driver to stop,



instead of stopping the car, he tried to flee from the spot. According to above-named police officer, in view of above-mentioned suspicious behavior the car was intercepted and its driver was apprehending, who on enquiry disclosed his name as Satnam Singh @Babby. As per report submitted by the above-named police officer, on the basis of suspicion when search of the car was conducted, a black colour bag was found therein and on checking, it was revealed that there were 08 packets of Heroin in the above-mentioned bag and Rs.21 lacs drug money. On measurement the weight of each packet came out to be 01 kg. (total 8 kg.).

3. It is the case of the prosecution that pursuant to above-mentioned recovery, requisite formalities with regard to seizure and sealing of contraband, lodging of FIR and arrest of accused were performed and further investigation taken up. According to prosecution during the course of investigation, when the above-named accused Satnam Singh was interrogated, he suffered several disclosure statements, one after the other, and in the above-mentioned disclosure statements he revealed the names of the persons who were involved in the activities of sale and purchase of Heroin. As per prosecution, during the course of further investigation when accused Gurwinder Singh @Mehak and Manjit Singh @Soni were apprehended, they suffered a disclosure statement, disclosing therein that on the asking of Vinod Kumar @Lucky, they got supplied the Heroin to the customers through the present petitioner. As per prosecution, from the possession of petitioner one car was recovered.



4. It is the further case of the prosecution that during the course of further investigation, it came on surface that Daljit Singh used to provide the truck to supply the Heroin to co-accused Satnam Singh, Hardeep Singh, Aman Rozi and Khushal Singh and thereafter, they have been arrested in this case. According to prosecution, from the possession of Hardeep Singh and Aman Rozi, 40 kg of Heroin was recovered and from the possession of Kushal Singh, 500 gm of Heroin was recovered.

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 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 having no nexus, whatsoever, with the commission of crime and that the petitioner was not found in possession of any drug and he has been nominated by his co-accused Gurwinder Singh @Mehak and Manjit Singh.

9. The learned counsel for the petitioner has further contended that the above-said disclosure statement was recorded when the accused Gurwinder Singh @Mehak and Manjit Singh were in custody and that the



disclosure statement did not led to discovery of any fact related to this case and therefore, the same is inadmissible in evidence, being hit by Section-23 of “Bharatiya Sakshya Adhiniyam”.

10. The learned State Counsel has controverted the above-mentioned arguments. It has been contended by learned State Counsel that in the present case very huge quantity of contraband has been recovered from the possession of co-accused, and that the disclosure statement suffered by the main accused, namely Gurwinder Singh @Mehak and Manjit Singh, makes it abundantly clear that, the present petitioner and other co-accused were operating as a gang involved in the trade of narcotic substance, and that the petitioner was one of the drug dealers, who used to purchase drugs and sell it to various users. As per learned State Counsel since the quantity of contraband recovered in this case comes within the ambit of ‘commercial quantity’, unless the twin conditions enshrined under Section-37 of NDPS Act are satisfied, the benefit of bail should not be afforded to the petitioner.

11. In support of his arguments, the learned State Counsel has referred to the principles of law laid down by the Hon’ble Supreme Court of India in the case of The State (NCT of Delhi) Narcotics Control Bureau v. Lokesh Chadha, (2021) 5 SCC 724, wherein it has been held that no person accused for offences involving a commercial quantity shall be released on bail, where the public prosecutor opposes the application, unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

12. The record has been perused carefully.



13. 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 abovementioned 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 abovementioned case afforded the benefit of bail to the accused.

14. 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.

15. 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.

16. 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.

17. 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 petitioner is already in custody for a period of more than one year and one month;
- (ii) that the only evidence available against the petitioner is the disclosure statement of his 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 in police custody. Since pursuant to above-mentioned disclosure statement no discovery of fact took place, *prima facie* the same appears to be hit by Section-23 of Bharatiya Sakshya Adhiniyam;
- (iii) that name of the petitioner does not figure in the FIR;
- (iv) that benefit of bail has already been accorded to co-accused;
- (v) that nothing is left to be recovered from possession of petitioner;
- (vi) that trial is not likely to be concluded in near future;
- (vii) that detention of petitioner 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 petitioner may tamper with the evidence or influence the witnesses; and
- (ix) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in trial.

18. 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”.

19. 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”.

20. 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”.

21. 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.



22. 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.

23. 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 abovementioned concession 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 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

20.02.2026

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No