



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

207

CRM-M No.31078 of 2025 (O&M)

Reserved on :09.09.2025

Pronounced on: 11.09.2025

Vinaysheel Joshi

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Argued by: Mr.L.S.Sekhon, Advocate for the petitioner.

Mr. Eklavya Darshi, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

1. This is the Second petition, filed by the petitioner, under Section 439 of Cr.P.C. and 483 of BNSS for grant of bail. For the commission of offence punishable under Sections 18 of Narcotic Drugs and Psychotropic Substances Act, 1985, FIR No. 91 dated 17.10.2023, has been lodged in Police Station Sadar Rajpura, District Patiala. The petitioner is being prosecuted for the commission of above mentioned offence, and he has been arrested. The petitioner is still in custody and, therefore, craving for the benefit of bail. The first application for bail was disposed off as not pressed vide order dated 25.02.2025.

2. Briefly stated that the facts emerging from the records are that the above mentioned FIR came into being on 17.10.2023, in view of chance recovery of contraband from the possession of accused.



3. As per prosecution story set up by the prosecution on 17.10.2023, when a police party headed by ASI Paramjeet was on duty at police barricade, at about 9-05 A.M, a bus came from Rajpura side and one person alighted from that bus. According to above named ASI the abovesaid person was carrying a black bag (backpack), and when on the basis of suspicion he was intercepted and search of the bag was conducted, it was found that he was carrying 2 KG 60 gram opium in the above mentioned bag. It is the case of the prosecution that all the requisite formalities, prescribed under the law, were completed before the conduct of search of the person of accused, necessary documents were prepared after seizure of the contraband, and the petitioner was taken into custody.

4. Heard.

5. It has been argued on behalf of the petitioner that he has been falsely implicated in the present case. According to learned counsel for the petitioner, the petitioner has clean antecedents and that the recovery of contraband from the possession of petitioner is just above the threshold limit for commercial quantity i.e. 2 KG 500 grams.

6. In addition to above, it has also been argued by learned counsel for the petitioner that the petitioner has already suffered sufficient incarceration for being in custody for a period of more than 1 year and 10 ½ months, and that nothing is left to be recovered from the possession of accused and the trial is not likely to be concluded in near future. The learned counsel for the petitioner, in support of his contentions, has referred to the law laid down by the Hon'ble Supreme Court of India in the case of **Tofan Singh Vs. State of**



Tamil Nadu, 2020 AIR (SC) 5592, and prayed for the benefit of bail to the petitioner.

7. The learned State counsel has controverted the above mentioned arguments. According to learned State counsel in the present case contraband recovered from the possession of petitioner is commercial quantity and, therefore, rigors of Section 37 of NDPS Act are applicable. According to learned State counsel there are very specific and categorical allegations against the petitioner, of being in possession of commercial quantity of contraband, and, therefore, the petitioner is not entitled for the benefit of bail.

8. The record has been perused carefully.

9. A perusal of record shows that for the decision of present petition, following are the factors which are relevant for arriving at any conclusion: -

- (1) that the petitioner is already in custody for a period of more than 1 year and 10 ½ months;
- (2) that investigation in this case is already complete, and nothing is left to be recovered from the possession of accused;
- (3) that trial is not likely to be concluded in near future;
- (4) that the petitioner has no criminal history/antecedents;
- (5) that the custody certificate shows that the petitioner has never been prosecuted for any offence earlier;
- (6) that detention of petitioner in judicial lock up is not likely to serve any purpose.
- (7) that due to delay in trial valuable fundamental rights guaranteed by the Constitution of India are being denied to the petitioner.

10. If cumulative effect of all the above mentioned factors is taken into consideration, and the law laid down by the Hon'ble Supreme Court of



India in the case of **Tofan Singh (supra)**, is followed, it leads to a conclusion that the petitioner is entitled for the benefit of bail.

11. Accordingly, without commenting anything on the merits of the case, the present petition is hereby allowed and the petitioner is admitted to bail subject to his furnishing bail bonds to the satisfaction of the trial Court.

(SURYA PARTAP SINGH)
JUDGE

Pronounced on:11.09.2025

Manoj Bhutani

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