



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

219/2

CRM-M-18496-2025 (O&M)

Date of Decision: 12.05.2025

Sewa Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. K.S. Dhaliwal, Advocate with
Mr. Vicky Sharma, Advocate for the petitioner.
Mr. Neeraj Sheoran, DAG, Haryana.

MAHABIR SINGH SINDHU, J.

Present petition has been filed, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of bail pending trial to the petitioner in FIR No.66 dated 19.03.2024, registered under Sections 15(b), 18(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') [Section 29 of NDPS Act added later on] and Section 201 of the Indian Penal Code, 1860, at Police Station Babain, District Kurukshetra.

2. Allegations are that 4 Kg 50 Grams *opium (commercial quantity)* and 3 Kg 800 Grams *poppy husk (non-commercial)* were recovered from one Gurjinder Singh and petitioner has been nominated on the disclosure of other co-accused-Sonu @ Bihari.

3. Learned State counsel has produced custody certificate dated 10.05.2025, which is taken on record. Registry to tag the same at appropriate place.

4. Contends that petitioner is in custody since 26.06.2024; and charges were framed on 16.10.2024. Further contends that out of total 20 prosecution witnesses, only 07 have been examined till date,



thus, trial will take sufficient long time. Also contends that petitioner has been nominated merely on the disclosure made by co-accused-Sonu @ Bihari and there is no recovery alleged against the petitioner.

5. After getting instructions, learned State counsel is not able to dispute the above factual position, but he opposed the prayer.

6. Heard both sides and perused the paper-book.

7. Although recovery alleged against the co-accused, Gurjinder Singh is commercial in nature, but, no contraband was recovered from the petitioner. Therefore, it would be debatable question as to whether petitioner was in any way connected with the alleged recovery effected from the co-accused; but, at this stage, it is very difficult to comprehend that petitioner was in conscious possession of the alleged contraband.

8. Thus, in such a scenario, there is no hesitation to record the “Twin Test” satisfaction in favour of the petitioner as per Section 37(1)(ii) of the NDPS Act in the following manner:-

(i) Prima facie, there is no material to indicate that petitioner was found in conscious possession of the alleged contraband; hence, being a debatable question, shall be decided during trial and in such a scenario, it is very difficult to say that petitioner is guilty of the alleged offence;

(ii) After registration of the FIR in question, petitioner has not been involved in any case under the NDPS Act.

9. Needless to say that above “Twin Test” satisfaction has been recorded only for the purpose of bail application and same be not treated as an opinion on pending trial.



10. As the, petitioner is in custody since 26.06.2024; charges were framed on 16.10.2024; out of total 20 prosecution witnesses, only 07 have been examined till date; hence trial will take sufficient long time. Therefore, further incarceration of the petitioner would not serve any purpose.

11. Consequently, present petition is allowed; petitioner shall be admitted to bail on furnishing bail/surety bonds to the satisfaction of learned Special Court/Chief Judicial Magistrate/Duty Magistrate concerned.

12. Petitioner shall appear on each & every date of hearing and to fully co-operate with the learned Special Court without seeking any unnecessary adjournment(s).

13. The above observations be not construed as an expression of opinion on the merits of the case.

14. It is clarified that in case there is recurrence or any misuse of concession of bail on the part of the petitioner, State would be at liberty to move an appropriate application for recalling of this order.

Pending application(s), if any, shall also stand disposed off.

12.05.2025
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable | Yes/No |