

2025:PHHC:087543



CRM-M No.28610 of 2024 (O & M)

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

213

**CRM-M No.28610 of 2024 (O & M)
Date of decision : 17.7.2025**

Avtar Singh @ Taru**Petitioner**

Versus

State of Punjab**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Arnav Ghai, Advocate, for the petitioner

Mr. Jaypreet Singh, DAG, Punjab

SUMEET GOEL, J. (ORAL)

1. Present second petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No.208 dated 7.9.2022, under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 of NDPS Act added later on), registered at Police Station Samana (Sadar Samana), District Patiala.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'At this time one ruqa from ASI Amarjit Singh 1977/PTA Chowki Mavi Kalan P.S. Sadar Samana was received in the police station by hand through PHG Sher Singh 30161 for registration of case against Avtar Singh @ Taru son of Gurmail Singh and Prabhjot Singh son of Naib Singh, resident of village Dhanetha, Police Station Sadar Samana Distt. Patiala under section 22/61/85 NDPS Act. The contents of the same are as under: TO S.H.O P.S. Sadar Samana, Jai Hind! Today, I, S.I. along PHG Sher Singh 30161 and PHG Jaswant Singh 18342 were riding in private



vehicle alongwith laptop printer and present at bus stand Shahpur in connection with patrolling as well as in search of suspected persons. Secret informant met me ASI and gave information that Avtar Singh @ Taru son of Gurmail Singh and Prabhjot Singh son of Naib Singh resident of Village Dhanetha, description of Avtar Singh is aged about 28-30 years, complexion wheatish, trimmed beard and hair, slim body, who is wearing white color T-shirt and black color lower and description of Prabhjot Singh is aged about 18-19 years, trimmed beard and hair, who is wearing a Pista Color T-shirt and Black Color lower. They are into business of selling drugs. Today they are present on road going from village Shahpur to Mavi Kalan on without numbered motorcycle make Platina, color black and are selling intoxicant tablets and intoxicant vials. If now raid is conducted then Avtar Singh@ Taru and Prabhjot Singh can be apprehended with intoxicant tablets and intoxicant syrup. Information is true and reliable. While keeping intoxicant tablets and intoxicant vials in their possession Avtar Singh @Taru and Prabhjot Singh has committed the offence u/s 22/61/85 NDPS Act. A ruqa for registration of case against Avtar Singh@ Taru and Prabhjot Singh is sent to the police station through PHG Sher Singh 30161. Case to be registered and no. file to be informed. For further investigation competent officer to be sent on the spot. Sd/- Amarjit Singh S.B. Chowki Mavi Kalan P.S. Sadar Samana Dated 07.09.22 at Bus Stand Shahpur at 3:15-PM.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 24.11.2022. Learned counsel has further urged that the trial has not culminated till date and the petitioner has suffered incarceration for more than 2 years and 7 months. Learned counsel has further urged that the petitioner is a man with clean antecedents. Learned counsel for the petitioner has further iterated that the procrastinating of the trial cannot be attributed to the petitioner. Thus, regular bail is prayed for.

4. *Per contra*, learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and



thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 16.7.2025 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 24.11.2022 whereinafter investigation was carried out and challan stands presented on 6.1.2023. Total 19 prosecution witnesses have been cited. Indubitably, 6 prosecution witnesses stand examined and 5 have been given up. Nonetheless, the fact remains the petitioner has suffered incarceration for more than 2 years and 7 months and a perusal of the *zimni* orders (appended with the petition) reflects that the said procrastination cannot be saddled upon the petitioner. In the factual *milieu* of the case, this Court deems it appropriate that the condition under Section 37 of the NDPS Act ought to be relaxed in view of the mandate contained in Article 21 of the Constitution of India.

6.1 The petition in hand is the second bail petition preferred before this Court. The first bail petition was dismissed by this Court vide order dated 23.1.2024. Indubitably, a change in circumstances is inevitable for maintainability of the second/subsequent bail petition—prolonged incarceration undergone by the accused after the rejection of the earlier bail petition constitutes a weighty and relevant consideration in adjudication of the second bail plea. The passage of time and the period of custody cannot be ignored, especially where trial is unlikely to



conclude in the near future. Keeping in view the extended incarceration of the petitioner and the slow pace of the trial, this Court is inclined to favourably consider the instant petition. A profitable reference in this regard is being made to a judgment passed by this Court in ***Rafiq Khan versus State of Haryana and another: 2024(2) Law Herald 1140;*** relevant whereof reads thus:

“10. As an epilogue to the above discussion, the following principles emerge:

“I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive



petition(s) ought to be readily and clearly decipherable from the said order passed.”

Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those



which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

17.7.2025

Ashwani

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No