



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-42994 of 2025

Date of Decision: 13.08.2025

Mangal Singh alias Kala

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Ms. Dolli Sharma and Mr. Sahil Gupta, Advocates
for the petitioner(s).

Surya Partap Singh, J.

1. The instant petition under Section 483 Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS") has been filed for regular bail in case arising out of FIR No. 60 dated 24.05.2025, registered under Sections 21(b) and 27A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "the 1985 Act"), Police Station Kathu Nangal, District Amritsar.

2. By virtue of above mentioned FIR, the petitioner is being prosecuted for the commission of offence punishable under Sections 21(b) and 27A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "the NDPS Act").

3. In nutshell, the facts emanating from record are that the FIR of this case came into being in view of recovery of contraband. According to prosecution, on 24.05.2025, when a police party headed by ASI Ajit Singh, was on patrolling duty, it spotted a person in village Kathu Nangal.

According to prosecution, when the above said boy noticed the police party on his way ahead, he suddenly got conscious and tried to flee. On the basis of suspicion, when he was intercepted and search of his person was conducted, after completing the formalities as prescribed under Section 50 of the 1985 Act, it was found that he was carrying an envelope containing 12 grams of heroin and ₹15,000/- cash. It is the case of the prosecution that on inquiry, the above said person disclosed that the money found in his possession was procured by him by sale of drugs. In view of above mentioned recovery, the petitioner is being prosecuted for the commission of offence punishable under Sections 21(b) and 27A of the NDPS Act.

4. Notice of motion.

5. Since advance notice has already been served upon the State, Mr. Eklavya Darshi, Deputy Advocate General, Punjab, accepts notice on behalf of the respondent and waives service. The learned State counsel has filed custody certificate of the petitioner, however, he has not opted to file reply and opposed the instant petition on the basis of oral submissions only.

6. It has been argued by the learned counsel for the petitioner that the petitioner has already suffered sufficient incarceration for being in custody for a period of more than 2½ months and that the alleged recovery of contraband from the possession of the petitioner is just little above small quantity, being 12 grams of heroin. It has further been argued by learned counsel that except the confessional statement of the petitioner, which was recorded by the police when the petitioner was in custody, there is no other evidence to show that the cash found in possession of the petitioner was a drug money. According to learned counsel for the petitioner, there is no

criminal history of the petitioner with regard to his involvement in the sale of drugs and therefore, Section 27A of the 1985 Act is not attracted in the instant case. While referring to the principles of law laid down by the Hon'ble Supreme Court in *State of West Bengal v. Rakesh Singh alias Rakesh Kumar Singh 2022(4) RCR (Criminal) 299*, it has also been argued by learned counsel for the petitioner that in the instant case, rigors of Section 37 of the 985 Act are not attracted.

7. While referring to the principles of law laid down in *Rakesh Kumar Singh's case (supra)*, it has been further argued by learned counsel for the petitioner that the present case is squarely covered by the principles laid down by the Hon'ble Supreme Court in the above mentioned case and therefore, the petitioner is entitled for bail.

8. While controverting the above said arguments of learned counsel for the petitioner, the learned State counsel submits that in the present case, one of the allegations against the petitioner is for being in possession of drug money worth ₹15,000/- and therefore, the petitioner has been prosecuted for the commission of offence under Section 27 A of the 1985 Act. According to learned State counsel, Section 37 of the 1985 Act is attracted in the present case and therefore, without observing that there are reasonable grounds for believing that the petitioner is not guilty of the offence and that he is not likely to commit any offence while on bail, the benefit of bail cannot be extended to the petitioner.

9. The record has been perused carefully. In the present case, a perusal of the record shows that custody certificate of the petitioner has been placed on record and the above mentioned custody certificate shows

that the instant is the only case wherein the petitioner has been prosecuted. Accord to custody certificate, neither the petitioner has been convicted/acquitted in any other case nor he is an undertrial. The above mentioned custody certificate reflects that the petitioner has no criminal antecedents.

10. It is also relevant to observe that the contraband allegedly recovered from the possession of petitioner is just above the small quantity, and only a friction of the minimum prescribed limit of commercial quantity. There is nothing on record to show that the cash found in possession of the petitioner was procured by sale of drug, as the details of the person to whom the drug was sold does not find mention on record. It seems that merely because an amount of Rs.15,000/- was found in possession of the petitioner, which is otherwise not a big amount in the current scenario, on the basis of assumptions, a conclusion with regard to above-mentioned money being a drug money has been drawn and thereafter and by forcing the petitioner, when he was in police custody, his statement has been procured by the Investigating Officer. Unless the details from whom the above mentioned money has been procured it cannot be observed that the cash amount allegedly found in possession of the accused was a drug money.

11. Considering the above mentioned factual situation and the ratio of the judgment in the case of ***Rakesh Kumar Singh's case (supra)*** the following are factors, which need consideration:-

- i) that the petitioner is in custody for a period of two months and 18 days;
- ii) that nothing is left to be recovered from the possession of

the accused;

- iii) that the petitioner has no criminal antecedents; and
- iv) that the investigation and the trial is not likely to be concluded in the near future; and
- v) That detention of petitioner behind the bars is not likely to serve any purpose.

12. In view of cumulative effect of all the above-mentioned factors, but without commenting anything on the merits of the case, the present petition is hereby accepted and the petitioner is admitted to bail on furnishing bail bonds to the satisfaction of the learned trial Court. In case, the learned trial Court concerned is not available on the date of furnishing bail bonds, the learned Sessions Judge shall be at liberty to assign the above case, for the above-mentioned purpose to any other Court.

13. It is, however, made clear that any observation made here-in-above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(Surya Partap Singh)
Judge

August 13, 2025

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No