



CRM-M No. 25758 of 2025 1

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

209

**CRM-M No. 25758 of 2025 (O&M)
Date of Decision: 16.05.2025**

Sanjiv Kumar @ Sunny

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. P.S.Hundal, Senior Advocate with
Ms. Arshpreet Kaur, Advocate for the petitioner.

Mr. T.P.S.Walia, AAG, Punjab.

MAHABIR SINGH SINDHU, J.

Present fourth petition has been filed under Section under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of bail pending trial to the petitioner in FIR No. 43 dated 29.05.2019 (P-1), under Sections 21, 25, 27-A and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Special Task Force, District SAS Nagar.

2. Learned State counsel has produced custody certificate dated 15.05.2025 and the same is taken on record.

Registry to tag the same at appropriate place.

3. Allegations are that on the basis of secret information, four persons going in a Swift Car bearing No. PB-10FC 2234 were apprehended at the spot; out of them 1 Kg of *heroin* (commercial quantity) along with drug money of Rs. 2,00,000/- was recovered from co-accused Poonam Rani; 300 grams of *heroin* (commercial quantity) was recovered from co-accused- Kewal Krishan @ Kala and 900 grams of *heroin* (commercial quantity) was



CRM-M No. 25758 of 2025 2

recovered from co-accused Payal, whereas present petitioner succeeded in fleeing away.

4. Contends that petitioner is in custody since 22.07.2022; supplementary report under Section 173(8) of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') has already been presented *qua* the petitioner on 17.12.2022; charges were framed on 06.12.2023. Also contends that there is no recovery alleged against the petitioner and reference in this regard has been made to three different recovery memos dated 29.05.2019, respectively, pertaining to co-accused Poonam Rani, Kewal Krishan @ Kala and Payal. Learned Senior counsel for petitioner has also produced said three different recovery memos dated 29.05.2019 and the same are taken on record as Mark 'X', 'Y' and 'Z', respectively. Further contends that there is no incriminating material against the petitioner regarding his complicity for the alleged recovery. Lastly contends that out of total 20 prosecution witnesses, only 2 has been examined till date; thus, the conclusion of trial will take sufficient long time; hence, further incarceration would not serve any purpose.

5. *Per contra*, learned State counsel vehemently opposed the prayer while submitting that petitioner was very much present at the spot but he managed to flee. Further submits that petitioner actively participated in the commission of offence and there is specific bar under Section 37 of NDPS Act to grant bail in the present case. Lastly submitted that allegations against petitioner are serious in nature; hence, he does not deserve the concession of bail.

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

7. It is alleged that 1 Kg of *heroin* (commercial quantity) along with drug money of Rs. 2,00,000/- was recovered from co-accused Poonam Rani; 300 grams of *heroin* (commercial quantity) was recovered from co-



CRM-M No. 25758 of 2025 3

accused-Kewal Krishan @ Kala and 900 grams of *heroin* (commercial quantity) was recovered from co-accused Payal vide three different recovery memos dated 29.05.2019 (Mark 'X', 'Y' and 'Z', respectively). Learned State counsel has fairly acknowledged that from the petitioner there was no recovery effected as he fled away from the spot. In such a scenario, it would be debatable during trial as to whether petitioner was present on the spot and; or connected in any manner with the alleged recovery. Thus, at this stage, it is very difficult to comprehend from three recovery memos that petitioner was in conscious possession of the alleged contraband.

8. Consequently, 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 situation, 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 found involved in any other case under the NDPS Act.

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.

9. Moreover, petitioner is in custody since 22.07.2022; supplementary report under Section 173(8) Cr.P.C was presented on 17.12.2022; charges were framed on 06.12.2023; thus, conclusion of trial will take sufficient long time. Above all, there is no recovery alleged against the petitioner; rather contraband is alleged to have been recovered from co-accused Poonam Rani, Kewal Krishan @ Kala and Payal vide three different recovery memos dated 29.05.2019 (Mark 'X', 'Y' and 'Z',



CRM-M No. 25758 of 2025 4

respectively).

10. *A fortiori*, it is not the objection raised by learned State counsel that in case, petitioner is released on bail, he shall influence the witnesses or hamper the course of trial in any manner; thus, his further incarceration would not serve any purpose.

11. Resultantly, present petition is allowed; petitioner shall be admitted to bail on furnishing bail/surety bonds to the satisfaction of learned trial 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 trial 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.

16.05.2025

Rajeev (rvs)

(MAHABIR SINGH SINDHU)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No