

PUNJAB AND HARYANA HIGH COURT

SINGLE BENCH

(Before : Sumeet Goel, J.)

GOPAL LAL ANJNA

Vs.

STATE OF PUNJAB

Criminal Miscellaneous (M) No 37020 of 2026

Decided on : 03-08-2026

A. Narcotic Drugs and Psychotropic Substances Act, 1985 — Section 67 — Evidentiary Value of Co-Accused Disclosure — A confession or disclosure statement made by a co-accused under Section 67 of the NDPS Act is inherently a weak piece of evidence and cannot form the sole basis for the conviction of an individual without independent corroborative substantive evidence — Where the petitioner was implicated solely on the basis of a co-accused's disclosure statement and no recovery was effected directly from him, the court must balance personal liberty against the effective administration of justice while adjudicating regular bail. (Para 6.1)

B. Regular Bail — Antecedents vs. Merits of the FIR — While prior involvement of the accused in other criminal cases/FIRs is a relevant factor to be accounted for, criminal antecedents alone cannot be a sufficient ground by itself to decline the concession of regular bail if a fit case on merits is made out under the facts and circumstances of the specific FIR in question. (Para 6.2)

C. Regular Bail — Second / Successive Bail Application & Prolonged Incarceration — A second or successive regular bail application is maintainable in law regardless of whether the earlier petition was dismissed on merits or withdrawn — However, the applicant must demonstrate a substantial change in circumstances. Prolonged incarceration as an undertrial coupled with a slow pace of trial (e.g., examination of only 2 out of 23 prosecution witnesses over an incarceration period of nearly two years) constitutes a valid change in circumstances justifying the grant of regular bail. (Para 6.3)

JUDGMENT

Sumeet Goel, J. - Present 2nd petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner, in case bearing FIR No.222 dated 20.10.2023 registered for the offences punishable under Sections 18-C and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Section 29 of NDPS Act added later on, at Police Station Sardulgarh, District Mansa.

2. The gravamen of the FIR in question pertains to the recovery of 12 Kg. of opium.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 30.08.2024. Learned counsel has further submitted that the petitioner has been falsely implicated into the FIR in question. Learned counsel has iterated that mandatory provisions of the NDPS Act have not scrupulously been complied with, and thus, the prosecution case suffers from inherent defects. Learned counsel has further iterated that assuming arguendo, the prosecution version is taken to be correct, the petitioner has been nominated into the FIR question on the basis of disclosure of co-accused. Learned counsel has submitted that similarly placed co-accused, namely, Jagjeet Singh @ Kala has been extended concession of regular bail by this Court, vide order dated 05.03.2026 passed in CRM-M-3672-2024. Learned counsel has further iterated that the petitioner has suffered incarceration for more than 1 and half years. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, thus, the petitioner does not deserve the concession of regular bail. Learned State counsel seeks to place on record the custody certificate dated 01.08.2026, in the Court today, which is taken on record.

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

6. The petitioner was arrested on 30.08.2024 wherein after investigation was carried out and challan qua the petitioner stands presented on 24.02.2025. Total 23 prosecution witnesses have been cited but none only 2 have been examined till date. It is thus indubitable that culmination of trial will take its own time. The rival contentions raised by learned counsel give rise to debatable issues which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. 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.

6.1. At this juncture, it would be apposite to refer to a judgment passed by this Court in **Anshul Sardana versus State of Punjab, passed in CRM-M-65094-2024 (2025: PHHC:004198)**, wherein, after relying upon the ratio decidendi of the judgments of the Hon'ble Supreme Court in **Tofan Singh versus State of Tamil Nadu, AIR 2020 Supreme Court 5592; Smt. Najmunisha, Abdul Hamid Chandmiya @ Ladoo Bapu versus State of Gujrat, Narcotics Control Bureau, 2024 INSC 290; State by (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr.', 2022 (1) RCR (Criminal) 762; and Vijay Singh vs. The State of**

Haryana, bearing Special Leave to Appeal (Crl.) No.(s) 1266/2023, decided on 17.05.2023, has held thus:

"6.3 It is a well established principle of law that a confession made by a co-accused under Section 67 of the NDPS Act is inherently a very weak piece of evidence. Such statement(s), by themselves, cannot form the sole basis for the conviction of an individual and must be scrutinized with utmost caution in conjunction with other substantive evidence. Moreover, no recovery has been effected from the possession of the petitioner, who has been subsequently implicated as an accused solely on the basis of disclosure statement of the co-accused. However, as regular bail pertains to life and liberty of individual, Courts are obligated to strike a balance between safeguarding personal liberty and ensuring the effective administration of justice as also investigation. The final evidentiary value and admissibility of the disclosure statement made by a co-accused fall within the domain of the trial Court and are to be adjudicated during the course of the trial in accordance with established principles of law. However, while adjudicating a plea for regular bail, this Court cannot remain oblivious to the circumstances under which the petitioner has been arraigned or implicated, including the nature of the allegations, the evidence linking the petitioner to the offence as well as the specific role attributed to the petitioner in the commission of the alleged offence. A prima facie examination of these factors is essential to ensure that the process of law is not misused, abused or misdirected."

6.2 As per custody certificate dated 01.08.2026 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 1 year, 11 months & is shown to be involved in other cases/FIRs. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail qua the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in **Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586**; a Division Bench judgment of the Hon'ble Calcutta High Court in case of **Sridhar Das v. State, 1998 (2) RCR (Criminal) 477** & judgments of this Court in **CRM-M No.38822-2022 titled as Akhilesh Singh v. State of Haryana, decided on 29.11.2021**, and **Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191**.

6.3 Indubitably, the present petition is the 2nd attempt by the petitioner to secure regular bail. The last bail plea preferred by the petitioner was dismissed as withdrawn on 23.01.2026 by co-ordinate bench of this Court in CRM-M-16502-2025. Keeping in view the entirety of the factual milieu of the case in hand, especially the extended incarceration of the petitioner as also the snail pace of the trial, this Court is inclined to favourably consider the instant plea for bail. A profitable reference, in this regard, can be made to a judgment of this Court passed in **CRA-S-2332-2023 titled as Rafiq Khan versus State of Haryana and another**; relevant whereof reads as under:

"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."

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, if not required in any other case, on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned trial Court/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 cellphone 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.

(viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after his being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned trial Court/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move for 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. Since the main case has been decided, pending miscellaneous application, if any, shall also stand disposed of.