

CRM-M-43324-2026

CNR No: PHHC011264782026

2026:PHHC:181993

229 (1st case)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-43324-2026

Sunder Singh

....Petitioner

versus

State of Haryana

....Respondent

Date of decision: September 29, 2026

Date of Uploading: September 29, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. R. Krishnaamorthi, Advocate for the petitioner.

Ms. Priyanka Sadar Thakur, Senior DAG Haryana.

SUMEET GOEL, J. (ORAL)

Present 4th 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.360 dated 24.10.2025, registered for commission of offence punishable under Sections 20(b)(ii)(C)/ 29-61-85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Hodal, District Palwal.

First bail plea of the petitioner was dismissed as withdrawn, vide order dated 21.01.2026 passed in **CRM-M-1787-2026**, with liberty to apply for interim bail before the concerned Special Judge, in terms of *Inderjeet Singh @ Laddi and others versus State of Punjab, 2014 (3) RCR (Criminal) 953*.

CRM-M-43324-2026

Second interim regular bail plea of the petitioner was dismissed as withdrawn, vide order dated 04.02.2026 passed in **CRM-M-6066-2026**, as the FSL report was stated to be received on 17.11.2025.

Last bail plea of the petitioner was dismissed as withdrawn, vide order dated 29.04.2026 passed in **CRM-M-19312-2026**.

2. The FIR in question pertains to recovery of 109 kg. 856 grams of *ganja patti*.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 24.10.2025. Learned counsel has urged that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further submitted 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 iterated that the trial is delayed and the liability thereof cannot be fastened upon the petitioner.

3.1. Learned counsel has submitted that after investigation, challan has already been presented on 27.12.2025. Total 18 prosecution witnesses have been cited, out of which 03 have been examined till date. Learned counsel has iterated that the petitioner has suffered incarceration for more than 11 months.

3.2. It has been urged that nothing is to be recovered from the petitioner; hence, no useful purpose would likely be served by continuing the incarceration of the petitioner further. Thus, it has been entreated that the petition in hand be granted.

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 the regular bail. It has been argued

CRM-M-43324-2026

that huge quantity of contraband has been recovered in this case. Learned State counsel has further submitted that petition in hand does not meet the rigors of Section 37 of the NDPS Act and is, thus, liable to be rejected on this score alone. In case, the petitioner is released on bail, there is all likelihood that he may abscond from the process of justice and also interfere with the prosecution witnesses/ evidence. Learned State counsel seeks to place on record custody certificate dated 28.09.2026, in the Court today, which is taken on record.

5. I have heard counsel for the rival parties and perused the paper-book as also the record produced before me.

6. Before delving further into the merits of the case, it would be apposite to refer herein to the following case-law germane to the matter(s) in issue:

- i) The Hon'ble Supreme Court in the case of ***Union of India versus Namdeo Ashruba Nakade, Special Leave to Appeal (Crl.) No.9792/2025***, has held as under:

“8. This Court is of the view that the issue of substance abuse has emerged as a global public health crisis in the twenty-first century, affecting every country worldwide, as drug trafficking and addiction have become pervasive. The United Nations Office on Drugs and Crime (UNODC) reported in its 2025 World Drug Report that “As at 2023, some 316 million people worldwide had used drugs in the past year, representing an increase over the past decade that outpaces population growth, which indicates a higher prevalence of drug use.”

9. In India, there has been a concerning increase in drug abuse among the youth. Substance abuse not only affects individuals, families, and communities but also undermines various aspects of health including physical, social, political, cultural foundations, and mental well-being. (See: “Bhattacharya S, Menon GS, Garg S, Grover A, Saleem SM, Kushwaha P. The lingering menace of drug abuse among the Indian youth – it’s time for action. Indian J Community Med 2025;50:S9-12, published on 17th April, 2025”)

10. According to many news reports, India faces a clear dilemma between tackling the narcotics crisis systematically or sacrificing its most valuable resource i.e. its young people. The extent of menace of drug abuse has also been highlighted by this Court in the case of Ankush Vipran Kapoor v. National Investigation Agency, (2025) 5 SCC 155 wherein this Court has observed as under:

“9.1 The ills of drug abuse seem to be shadowing the length and breadth of our country with the Central and every State Government fighting against the menace of substance abuse. The debilitating impact of drug trade and drug abuse is an immediate and serious concern for India. As the globe grapples with the menace of escalating Substance Use Disorders (“SUD”) and an ever accessible drug market, the consequences leave a generational Page 75 of 84 imprint on public health and even national security. Article 47 of the Constitution makes it a duty of the State to regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health. The State has a responsibility to address the root causes of this predicament and develop effective intervention strategies to ensure that India’s younger population, which is particularly vulnerable to substance abuse, is protected and saved from such menace. This is particularly because substance abuse is linked to social problems and can contribute to child maltreatment, spousal violence, and even property crime in a family.”

11. In the present case, this Court finds that though the Respondent-accused was in custody for one year four months and charges have not been framed, yet the allegations are serious inasmuch as not only is the recovery much in excess of the commercial quantity but the Respondent-accused allegedly got the cavities ingeniously fabricated below the trailer to conceal the contraband.

12. Prima facie this Court is of the opinion that the Respondent-accused is involved in drug trafficking in an organized manner. Consequently, no case for dispensing with mandatory requirement of Section 37 of the NDPS Act is made out in the present matter.

13. Moreover, this Court is of the view that as the accused has been charged with offences punishable with ten to twenty years rigorous imprisonment, it cannot be said that the Respondent has been incarcerated for an unreasonably long time.”

ii) Further, the Hon’ble Supreme Court in the case of ***Union of India versus Vigin K. Varghese, Special Leave Petition (Crl.) No(s).7768 of 2025***, has held as under:

“15. At this stage, two features stand out. The High Court’s conclusion that there is no material to show that the applicant had any knowledge of the cocaine in the consignment has been arrived at without discussion of the statements of the respondent and circumstances relied upon by the prosecution, including the assertion that the respondent had placed the orders for import, controlled the logistics chain, coordinated with the overseas supplier, and was present when the consignment was opened. The High Court has not examined whether those circumstances, taken at

face value for the limited purpose of bail, could prima facie indicate conscious control or involvement sufficient to attract the presumption of culpable mental state indicated under Section 35 of the NDPS Act.

16. Further, while granting bail, the High Court recorded that there were no antecedents against the applicant. The material before this Court includes the Union's assertion that the respondent had already been apprehended in connection with an earlier seizure of approximately 198.1 kilograms of Methamphetamine and 9.035 kilograms of Cocaine allegedly imported through the same channel only days before the present seizure. That assertion is neither noticed nor answered in the impugned orders.

17. The High Court then, on the strength of those premises, recorded a finding that there exist reasonable grounds to believe that the applicant is not guilty of the alleged offence, treating prolonged incarceration and likely delay as the justification for bail. Such a finding is not a casual observation. It is the statutory threshold under Section 37(1)(b)(ii) which would disentitle the discretionary relief and grant of bail must necessarily rest on careful appraisal of the material available. A conclusion of this nature, if returned without addressing the prosecution's assertions of operative control and antecedent involvement, risks trenching upon appreciation of evidence which would be in the domain of trial court at first instance."

iii) The Hon'ble Supreme Court in the case of ***State of Punjab versus Sukhwinder Singh @ Gora, Special Leave to Appeal (Crl.) No.5020/2026***, has held as under:

"9. It is well-settled that in matters involving recovery of contraband in commercial quantity, the twin conditions under Section 37(1)(b)(ii) of the NDPS Act are mandatory and entail no relaxation merely on the ground that the accused has undergone prolonged incarceration during the pendency of trial. The provision casts upon the Court a duty to record, before enlarging an accused on bail, its satisfaction on two cumulative conditions, first, that there exist reasonable grounds for believing that the accused is not guilty of the offence charged; and second, that he is not likely to commit any offence while on bail. The recording of such satisfaction is not a mere formality but a mandatory pre-condition, the non-observance of which vitiates the grant of bail. This Court, in *Kashif (supra)*, has held in no uncertain terms that the recording of satisfaction on the twin conditions under Section 37 is mandatory and not merely directory, and that an order granting bail without such recorded satisfaction stands vitiated and cannot be sustained. The same view stands reiterated in *Lalrinluanga Sailo (supra)*.

10. The impugned order, on its own showing, does not record the satisfaction mandated under Section 37(1)(b)(ii) of the NDPS Act. Far from recording such satisfaction, the High Court has gone on to observe that 'the rigours of Section 37 of the NDPS Act can be diluted bearing in mind the right to a speedy trial.' Such an approach is plainly contrary to the settled law laid down by this Court and

deserves to be set aside on this ground alone. The right to speedy trial, rooted in Article 21 of the Constitution, is undoubtedly a precious Constitutional right. That said, in matters governed by a special enactment such as the NDPS Act, particularly where the recovery is of commercial quantity, the said right under Article 21 must be exercised within the framework of Section 37 and cannot be pressed into service solely on the ground of delay to override it. The constitutional right under Article 21 and the special provision of law under Section 37, NDPS Act are to be read harmoniously and not placed in opposition to each other. The High Court, by failing to record its satisfaction on the twin conditions under Section 37, has in this Court's view, committed an error."

7. In the considered opinion of this Court, the nature of allegations as also the huge quantity of the contraband recovered, disentitle the petitioner to the discretionary relief of regular bail. Furthermore, no accentuating or exceptional circumstances have been made out which may, *prima facie*, constitute a compelling ground for grant of regular bail to the petitioner, especially in the light of huge recovery of commercial quantity of the contraband. The Court cannot accept the plea of false implication of the petitioner merely based on bald assertions, unsupported by any cogent material. The argument of the learned counsel that the petitioner has been falsely implicated into the FIR in question, cannot be accepted, at this stage, as the surrounding circumstances of the incident raise doubts that can only be clarified during the course of trial.

7.1. There is yet another aspect of the matter which merits consideration at this stage. The allegations in the present case pertain to the recovery of an exceptionally huge quantity of the contraband, i.e. 109 kg. 856 grams of *ganja patti*, which is substantially higher than the prescribed commercial quantity. Such an enormous recovery, *prima facie*, reflects seriousness and gravity of the alleged offence and, therefore, cannot be viewed lightly while considering the petitioner's prayer for regular bail. Once the alleged recovery falls within the ambit of commercial quantity, the rigours of Section 37 of the NDPS Act are squarely

CRM-M-43324-2026

attracted. The grant of bail in such cases is subject to the twin conditions stipulated therein, namely, that the Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that he/she is not likely to commit any offence while on bail. In the facts and circumstances of the present case, particularly having regard to the magnitude of the alleged recovery, this Court, at this stage, does not find any material sufficient to record such satisfaction. Consequently, the statutory embargo contained under Section 37 of the NDPS Act operates against the grant of regular bail to the petitioner.

8. The petitioner was arrested on 24.10.2025 whereinafter investigation was carried out and challan *qua* the petitioner was presented on 27.12.2025 and charges have been framed on 01.04.2026. Total 18 prosecution witnesses have been cited, out of which, 03 have been examined till date. Indubitably, the petitioner is involved in an FIR pertaining to recovery of 109 kg. 856 grams of *ganja patti*; the recovered contraband is commercial in nature. From the rival submissions as also the material brought forth before me, no cause *nay* plausible cause is made out in favour of the petitioner to meet with the rigors of Section 37 of the NDPS Act.

9. Hence, keeping in view the entirety of the factual *milieu* of the case in hand; especially the contraband alleged to be recovered being commercial in nature, likelihood of the petitioner to abscond from the process of justice & also interfere with the prosecution witnesses/ evidence; this Court does not find any ground to grant concession of regular bail to the petitioner. Hence, the petition in hand stands **dismissed**.

10. Ordered accordingly.

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

CRM-M-43324-2026

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

September 29, 2026

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No