



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

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CRM-M No.24748 of 2026 (O&M)

Date of Decision: 03.06.2026

Narayan Dass

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr.Ruhani Chadha, Advocate for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

This is first petition for bail, filed by the petitioner under Section 483 of the 'Bharatiya Nagarik Suraksha Sanhita 2023'.

2. The facts of the present case are very peculiar the same may be summarized as under:-

on 10.02.2019 at the instance of Inspector 'Harjit Singh', the FIR No.15 dated 10.02.2019, for the commission of offence punishable under Sections 22 of Narcotic Drugs & Psychotropic Substances Act, 1985, hereinafter being referred to as 'NDPS Act' only, was registered in Police Station Dayalpura, District Bathinda. The above mentioned FIR was lodged on the foundation that 15500 tablets of 'Tramadol' was recovered from the possession of 'Amit Mittal @ Happy'. Pursuant to above mentioned FIR the investigation was



conducted and during the course of investigation two more accused namely 'Sanjeev Kumar' and 'Sunil Kumar @ Sonu' were implicated in that case, and the challan was filed against the above named three accused.

The trial with regard to above mentioned final report filed by the police commenced in the Court of learned Special Judge, designated under NDPS Act. The above mentioned trial culminated into judgment of conviction of accused 'Amit Mittal' and acquittal of remaining two accused, namely 'Sunil Kumar' and 'Sanjeev Kumar', vide judgment dated 09.05.2023. During the course of above mentioned trial 'Narayan Dass' (the petitioner herein) was examined as DW-3. The learned Special Judge while pronouncing the above mentioned judgment recorded certain remarks against the present petitioner those remarks were as under:-

'Before parting with the judgment, this court wants to observe that the role of DW3 Narain Dass has not been properly investigated by the police during investigation. He does not have any record of employment of Amit Mittal. It is his admission that he supplied the contraband to accused Amit Mittal. There is a prima-facie evidence that he was instrumental in supplying the contraband to accused Amit Mittal without providing any bill to him. The Investigating Officer did not conduct the investigation regarding the role played by DW3 in



the commission of crime. Therefore, copy of judgment be sent to the learned Senior Superintendent of Police, Bathinda with the direction to investigate the role of DW3 Narain Dass and take action as per law.

3. Pursuant to above mentioned observations, recorded by the learned Special Judge, the petitioner, who was in custody in some other case was formally arrested in the present case also and since then he is in custody.

4. It shall not be out of place to mention here that the observations recorded by the Special Judge in its judgment dated 09.05.2023 (contained in paragraph No.43 of the judgment) have been challenged by the petitioner by filing a petition under Section 528 of BNSS, i.e. CRM-M-16295-2026. In the above mentioned petition while observing that additional accused has been summoned without invoking the provisions enshrined under Section 319 Cr.P.C., the operation of judgment dated 09.05.2023, with regard to directions contained in paragraph No.43 of the judgment, was stayed. However, despite the above mentioned stay order dated 24.03.2026, the learned Special Judge Bathinda, vide order dated 17.04.2026, dismissed the application for bail filed by the petitioner.

5. Hence, the present petition for bail.

6. Heard.

7. It has been contended by learned counsel for the petitioner that instant case is one of the rarest cases, wherein the very foundation on which the entire prosecution case is based, is under challenge and *prima facie* appreciated by this Court in CRM-M-16295-2026, but the learned trial Court despite the stay order passed by this Court, with regard to the direction dated 09.05.2023, which led to the present prosecution of the petitioner, dismissed the application for bail.



According to learned counsel for the petitioner the above mentioned order passed by the learned Special Judge dated 17.04.2026 is the outcome of total non-application of judicial mind and also the incorrect appreciation of relevant legal propositions. According to learned counsel for the petitioner when the very foundation of the prosecution stands stayed by virtue of order of this Court, there could not have been any occasion to detain the petitioner in judicial lock-up but the learned Special Judge completely ignored the above mentioned legal proposition and dismissed the application for bail. According to learned counsel for the petitioner in view of stay order passed by this Court the petitioner is entitled to the benefit of bail.

8. The learned State counsel has controverted the above mentioned arguments. According to learned State counsel the allegations against the petitioner are of serious in nature, and that simply because the operation of order dated 09.05.2023, with regard to prosecution of petitioner, has been stayed the petitioner cannot be absolved of the responsibility regarding offence committed by him and appreciated by the learned Special Judge in its judgment dated 09.05.2023. According to learned State counsel the above mentioned judgment is yet to be set aside, and therefore, till the decision in CRM-M-16295-2026, the petitioner is bound to face the prosecution.

9. The record has been perused carefully.

10. In view of the fact that at initial stage any challan against the petitioner was not filed by the investigating agency, and that the operation of order dated 09.05.2023 with regard to prosecution of petitioner has been stayed in CRM-M-16295-2026, it is hereby held that there cannot be any justification



in detaining the petitioner in judicial custody. In my opinion, the learned trial Court committed a grave error of judgment when it failed to appreciate that the very foundation of prosecution of the petitioner stands vanished, and therefore, his detention in judicial lock up is illegal. Thus, it is hereby observed that the petitioner is entitled to bail, and that the present petition deserves to be allowed.

11. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned Special Judge, designated under NDPS Act. However, the abovesaid benefit shall be subject to following conditions:-

- i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court or to any other authority;
- ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- iii) that the petitioner shall not leave India without prior permission of trial Court.

12. It is, however, made clear that any observation made hereinabove is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.



13. However, before parting-ways with this order it shall be appropriate to note here that the order dated 17.04.2026, passed by the learned Judge, Special Court, Bathinda, is the example of total non-application of judicial mind, casting a shadow on the judicial acumen of the learned Presiding Officer. Hence, the copy of this order be forwarded to the Hon'ble Administrative Judge, Bathinda Sessions Division, for kind perusal.

(SURYA PARTAP SINGH)
JUDGE

03.06.2026

Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No