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2025:PHHC:146176



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: October 27, 2025

Dharminder Singh @ Rana
.....Petitioner
versus
State of Punjab
.....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Vipul Jindal, Advocate for the petitioner.
Mr. Baljinder Singh Sra, Additional AG Punjab.

SUMEET GOEL, J. (ORAL)

Present 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.183 dated 08.10.2024, registered for the
offences punishable under Sections 21(C)/25/27A/29 of the Narcotic Drugs and
Psychotropic Substances Act, 1985 (for short ‘NDPS Act’), at Police Station
Chheharata, Amritsar.

2. The gravamen of the FIR in question is that the police received
secret information that co-accused, namely, Harpreet Singh @ Happy, Jota
Singh, and Gurpreet Singh, who are allegedly engaged in the large-scale trade
of heroin, had arrived at the Ghanupur By-pass, Amritsar, to collect a
consignment of heroin. Acting on this information, a raid was conducted,
during which the aforesaid persons were apprehended by the police. Upon
search, they were found in possession of 5 kilograms and 64 grams of heroin,
along with drug money amounting to ₹4,24,000/-. During the course of

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investigation, co-accused, namely, Jota Singh made a disclosure statement, revealing that his cousin, namely, Harpreet Singh, had come into contact with Pakistani smugglers about six months earlier. He further disclosed that he, along with Harpreet Singh and his brother, namely, Gurpreet Singh, used to collect heroin consignments from the India–Pakistan border, which were sent by a Pakistani smuggler named Ali through drones. The accused would then distribute the narcotics in various areas, including Chheharta By-pass, Ghanupur Kale, and other localities of Amritsar, as per Ali's directions. He also disclosed that the drug proceeds were kept in a house situated in an isolated area, which had been purchased by Harpreet Singh in the name of his father. Furthermore, he stated that on 09.10.2024, he, along with Harpreet Singh, had procured 4 kilograms of heroin from an unknown person, and an additional 1 kilogram was obtained from the petitioner, again on the instructions of Ali. The petitioner was arrested while travelling in a car bearing registration number PB46U-5255, and drug money amounting to ₹1,70,000/- was recovered from a black polythene bag lying on the dashboard of the said vehicle. The petitioner also made a disclosure statement admitting that the recovered money had been received from the sale of heroin.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 09.10.2024. 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 further iterated that sole basis to array the petitioner as an accused is the disclosure statement of co-accused, namely Jota Singh. Learned counsel has further iterated that nothing has been recovered from the petitioner and it is

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only on account of alleged recovery of drug money of ₹1,70,000/- from the petitioner on his confessional statement that the police has sought to invoke provisions of Section 27-A of the NDPS Act, so as to debar the petitioner from securing bail as rigors of Section 37 of the NDPS Act would be attracted. Learned counsel has further iterated that the petitioner has suffered incarceration for more than 01 year. 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 the regular bail. Learned State counsel seeks to place on record the custody certificate dated 25.10.2025, in the Court today, which is taken on record.

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

6. The petitioner was arrested on 09.10.2024 whereinafter, investigation was carried out and the challan has been presented on 04.04.2025. Total 17 prosecution witnesses have been cited, only 01 has been examined in part till date. It is not in dispute that the alleged contraband was recovered from co-accused of the petitioner. The only basis on which the police claim that sum of ₹1,70,000/- recovered from the petitioner constitutes drug money is the own confessional statement of the petitioner. The petitioner has been implicated as an accused in the FIR in question solely on the basis of disclosure statement of Jota Singh. As per prosecution version, there is no other material available to connect the petitioner with the contraband except for the said disclosure statement. It is pertinent to note that such disclosure statements, in the absence of corroborative evidence hold limited evidentiary value and cannot be sole

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basis for implicating the petitioner. The reliance on this unsubstantiated statement raises serious doubts about the fairness and objectivity of the investigation. It is not in dispute that the petitioner was not present at the spot. The veracity and weightage required to be attached to the disclosure statement made by the co-accused will be fully tested at the time of trial. The rival contentions raised at Bar 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*

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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 25.10.2025 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of 01 year and 10 days. In this view of the matter, the rigor imposed under Section 37 of the NDPS Act stands diluted.

6.3. In the factual milieu of the case, this Court is of the considered opinion that fetters of Section 37 of the NDPS Act have been met with so as to enlarge the petitioner on bail. It would be apposite to refer a judgment of this Court in ***Jaswinder Singh alias Kala versus State of Punjab*** passed in ***CRM-M-33729-2025 (2025:PHHC:089161)***; the relevant whereof reads thus:

“14. As a sequitur to above-said rumination, the following postulates emerge:

- (I) (i) A bail plea on merits; in respect of an FIR under NDPS Act of 1985 involving offence(s) under Section 19 or Section 24 or Section 27-A thereof and for offence(s) involving commercial quantity; is essentially required to meet with the rigour(s) of Section 37 of NDPS Act.
- (ii) The rigour(s) of Section 37 of NDPS Act do not apply to a bail plea(s) on medical ground(s), interim bail on account of any exigency including the reason of demise of a close family relative etc.
- (iii) The rigour(s) of Section 37 of NDPS Act pale into oblivion when bail is sought for on account of long incarceration in view of Article 21 of the Constitution of India i.e. where the bail-applicant has suffered long under-trial custody, the trial is procrastinating and folly thereof is not attributable to such bail-applicant.
- II. The twin conditions contained in Section 37(1)(b) of NDPS Act are in addition to the conditions/parameters contained in Cr.P.C./BNSS or any other applicable extant law.
- III. The twin conditions contained in Section 37(1)(b) of NDPS Act are cumulative in nature and not alternative i.e. both the conditions are required to be satisfied for a bail-plea to be successful.

- IV. *For consideration by bail Court of the condition stipulated in Section 37(1)(b)(i) of NDPS Act i.e. “there are reasonable grounds for believing that he is not guilty of such offence”:*
- (i) The bail Court ought to sift through all relevant material, including case-dairy, exclusively for the limited purpose of adjudicating such bail plea.*
 - (ii) Such consideration, concerning the assessment of guilt or innocence, should not mirror the same degree of scrutiny required for an acquittal of the accused at the final adjudication & culmination of trial.*
 - (iii) Plea(s) of defence by applicant-accused, if any, including material/documents in support thereof, may be looked into by the bail-Court while adjudicating such bail plea.*
- V. *For consideration of the condition stipulated in Section 37(1)(b)(ii) i.e. ‘he is not likely to commit any offence while on bail’:*
- (i) The word ‘likely’ ought to be interpreted as requiring a demonstrable and substantial probability of re-offending by the bail-applicant, rather than a mere theoretical one, as no Court can predict future conduct of the bail-applicant.*
 - (ii) The entire factual matrix of a given case including the antecedents of the bail-applicant, role ascribed to him, and the nature of offence are required to be delved into. However, the involvement of bail-applicant in another NDPS/other offence cannot ipso facto result in the conclusion of his propensity for committing offence in the future.*
 - (iii) The bail-Court may, at the time of granting bail, impose upon the applicant-accused a condition that he would submit, at such regular time period/interval as may stipulated by the Court granting bail, an affidavit before concerned Special Judge of NDPS Court/Illaq (Jurisdictional) Judicial Magistrate/concerned Police Station, to the effect that he has not been involved in commission of any offence after being released on bail. In the facts of a given case, imposition of such condition may be considered to be sufficient for satisfaction of condition enumerated in Section 37(1)(b)(ii).*
- VI. *There is no gainsaying that the nature, mode and extent of exercise of power by a Court; while satisfying itself regarding the conditions stipulated in Section 37 of NDPS Act; shall depend upon the judicial discretion exercised by such Court in the facts and circumstances of a given case. No exhaustive guidelines can possibly be laid down as to what would constitute parameters for satisfaction of requirement under Section 37 (ibid) as every case has its own unique facts/circumstances. Making such an attempt is nothing but a utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such matter.”*

6.4. Further, as per the said custody certificate the petitioner is stated to be involved in other FIR(s). However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in

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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*.

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 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/Illaq 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

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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 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 stands disposed off.

(SUMEET GOEL)
JUDGE

October 27, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No