



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-6788 of 2025

Date of Decision: 30.10.2025

Krishan Kumar

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Sumit S. Bairagi, Advocate
for the petitioner(s).

Ms. Deepali Verma, Assistant Advocate General,
Haryana, for the respondent.

Surya Partap Singh, J.

1. For the commission of offence punishable under Section 20 of Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter being referred as “the NDPS Act” only, the FIR No. 265 dated 04.04.2024 has been lodged in Police Station Assandh, District Karnal, Haryana. This is first petition for bail, filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred to as “BNSS” only.

2. During the course of investigation of above mentioned case, the petitioner was arrested on 08.04.2024. The petitioner is in custody since then, and therefore, for the concession of bail he has approached this Court, by virtue of present petition under Section 483 of BNSS.

3. Briefly stating the facts emerging from record are that the FIR

of this case came into being, when on the basis of a secret information, a police party headed by SI Ram Niwas apprehended Krishan Kumar son of Chandu and from his possession 1 kg. 100 grams of charas was recovered. According to prosecution, once the formalities with regard to search, seizure, lodging of FIR and arrest were completed, the investigation of this case was undertaken and during the course of investigation, when accused Krishan Kumar was interrogated, he suffered a disclosure statement, nominating therein the petitioner as a supplier of the contraband.

6. Heard.

7. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that nothing has been recovered from the possession of petitioner. According to learned counsel for the petitioner, the petitioner has already suffered a long incarceration for being in custody for a period of one year six months & 21 days, and that despite the recovery of contraband, from the possession his co-accused-Krishan Kumar, comes within the ambit of commercial quantity, rigors of Section 37 of the NDPS Act are not attracted qua the plea of petitioner as nothing has been recovered from his possession.

8. Per contra, the learned State counsel has argued that the allegations against the co-accused of the petitioner are with regard to recovery of commercial quantity of narcotic substance, and therefore, without satisfying the twin conditions enshrined under Section 37 of the NDPS Act, the petitioner cannot claim the benefit of bail.

9. The record has been perused carefully.

10. A perusal of the record shows that there are several factors

which are required to be taken into consideration at this stage. They are:-

- i) that the petitioner is already in custody for a period of more than one year and six months;
- ii) that nothing has been recovered from the possession of petitioner;
- iii) that the petitioner has been implicated in the present case merely on the basis of disclosure statement suffered by his co-accused and that such disclosure statement was suffered by the co-accused when he was already in police custody. In view of above, there is a big question with regard to credibility and admissibility of disclosure statement suffered by the co-accused, while in police custody;
- iv) that there is nothing on record to show that if released on bail, the petitioner will tamper with the prosecution evidence or influence the witnesses;
- v) that detention of the petitioner behind the bars is not likely to serve any purpose;
- vi) that nothing is left to be recovered from the possession of petitioner; and
- vii) that since nothing has been recovered from the possession of petitioner, rigors of Section 37 of the NDPS Act are not applicable in the present petition.

11. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the

concession of bail and the present petition deserves to be allowed. Hence, the instant petition is hereby allowed and the petitioner is admitted to bail subject to his furnishing bail bonds to the satisfaction of the learned trial Court. In case, the learned trial Court concerned is not available on the date of furnishing bail bonds, the learned Sessions Judge shall be at liberty to assign the above case, for the above-mentioned purpose, to any other Court.

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

(Surya Partap Singh)
Judge

October 30, 2025
“DK”

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