

CRM-M-8734-2025

2025:PHHC:127192

216 (1st case)**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision: September 15, 2025

Parkash Patel

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Varun Sharma, Advocate for the petitioner.

Mr. Jaypreet Singh, DAG 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.226 dated 15.11.2024, registered for the offences punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') [Section 29 of the NDPS Act and Section 25 of the Arms Act, 1959 (for short 'Arms Act') added later on], at Police Station Sadar, District Jalandhar.

2. The gravamen of the FIR in question is that on 15.11.2024, at about 12:05 a.m., co-accused, namely, Guravtar Singh Tari (driver) and Des Raj (co-passenger) while they were travelling in a car bearing registration No.PB-09-Q-4590, and similarly, another co-accused, Daler Singh, who was

driving vehicle No.PB-08-DS-4993, were apprehended by the police, and total contraband of 15 Quintals 40 kg of poppy-husk and one country-made pistol were allegedly recovered from them. Pursuant to the disclosure statement of Daler Singh, another co-accused, namely, Joga Singh was apprehended, and based on the disclosure of said Joga Singh, the present petitioner has been implicated as an accused in this case.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has argued that prime prosecution material available against the petitioner is the disclosure of co-accused, which *per se* is not tenable in law. Learned counsel has argued that the petitioner is a mere courier boy working at Ludhiana. Learned counsel has iterated that the petitioner has already suffered incarceration of about 10 months. Thus, regular bail is prayed for.

4. *Per contra*, learned State counsel has filed the custody certificate dated 14.09.2025 as also status report by way of an affidavit dated 19.08.2025 of Paramjit Singh, PPS, Additional Deputy Commissioner of Police, Jalandhar, in the Court, which are taken on record. Relevant of the aforesaid status report reads thus:

“32. That it is pertinent to mention that during the course of investigation, the call detail records (CDRs) and location data of the mobile numbers used by the accused persons were obtained to establish their communication and association. Upon receipt and scrutiny of the said records, it has been revealed that the Present Petitioner remained in frequent contact with co-accused Lucky son of Ajmer Singh on his mobile number 62395-62885, as well as with co-accused Joga Singh son of Kuldeep Singh on mobile number 9877334096, using his own mobile number 63572-42323. It is further transpired that mobile phone alongwith sim no.63572-42323 was recovered from the personal search of the Present Petitioner and the said sim number is found to be registered in the name of Parkash Patel (Present Petitioner) himself as per CAF report

(customer application form) given by JO Company. Similarly, mobile number pertaining to co-accused Lucky is also registered in his name. Whereas, one mobile no.9877334096 as well as mobile sim no.9779445717 which was using by the co-accused Joga Singh has been taken into police possession from his personal search by the police and the said numbers are not registered under his name. Copy of call details is attached for ready reference of this hon'ble Court, which is Annexure R-2."

4.1. Raising submissions in tandem with the aforesaid status report has argued that the case in hand pertains to recovery of commercial quantity of narcotics and thus, bail plea of the petitioner is barred by Section 37 of the NDPS Act. On the strength of these submissions, dismissal of the present bail petition is entreated for.

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

6. Indubitably, the bail plea in hand pertains to an FIR under the NDPS Act involving recovery of 1540 kg. of poppy-husk, which is commercial quantity, *ergo* the bail petition in hand has to be considered in light of the rigors contained in Section 37 of NDPS Act. In this regard, reliance can be placed upon *dicta* of this Court passed in ***Jaswinder Singh alias Kala versus State of Punjab*** passed in ***CRM-M-33729-2025 (2025:PHHC:089161)***; wherein after relying upon the *ratio decidendi* of the judgments of the Hon'ble Supreme Court in *Union of India versus Thamisharasi & Ors*, 1995 (4) SCC 190, *Customs, New Delhi vs. Ahmadalieva Nodira*, 2004 (3) SCC 549, *Union of India vs. Shri Shiv Shanker Kesari*, 2007 (4) RCR (Criminal) 186, *Satpal Singh vs. State of Punjab*, 2018 (13) SCC 813, *Narcotics Control Bureau vs. Mohit Aggarwal*, 2022 LiveLaw (SC) 613, *Mohd. Muslim @ Hussain vs. State (NCT of Delhi)*, 2023 LiveLaw (SC) 260, *Narcotics Control Bureau vs.*

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Kashif, 2024 INSC 1045, Usmanbhai Dawoodbhai Memon vs. State of Gujarat, 1988(1) RCR (Criminal) 540, Ranjitsing Brahmajeetsing Sharma vs. State of Maharashtra & Anr. 2005(5) SCC 294, Central Bureau of Investigation vs. Vs. Vijay Sai Reddy, 2013(3) RCR (Criminal) 252, Municipal Corporation of Delhi vs. M/s Jagan Nath Ashok Kumar and another, 1987(4) SCC 497, Gujarat Water Supply and Sewerage Board vs. Unique Erectors (Gujarat) (P) Ltd., and another, 1987(1) SCC 532, Collector and others vs. P. Mangamma and others, 2003(4) SCC 488, Commissioner of Income-tax, Delhi vs. S. Teja Singh, 1958 SCC Online SC 30, Management of Advance Insurance Co. Ltd. Vs. Shri Gurudasmal and others 1970(1) SCC 633, Tinsukhia Electric Supply Co. Ltd. Vs. State of Assam, 1989(3) SCC 709 and Commissioner of Income Tax vs. Hindustan Bulk Carriers, 2003(3) SCC 57; it has been held as under:

“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.”

7. Pertinently, to make out a case involving commercial quantity — twin conditions as enumerated under Section 37 (1) (b) of the NDPS Act are to be met with. The case at hand involves recovery of around 1540 Kg poppy-husk, which is commercial quantity and the name of the petitioner has come up in the disclosure statement of co-accused Joga Singh, and thereafter, vide DDR No.3 dated 10.02.2025, the petitioner was nominated as an accused and has been in custody since 15.02.2025. At this stage, it cannot be said that there exist *reasonable grounds* to arrive at the finding that the petitioner has not committed the offence as alleged. The call details record as the location data of mobile phones reveal that the petitioner had been in frequent and constant contact and association with other co-accused. *Ergo*, the plea fails to withstand twin conditions as enumerated under Section 37(1) (b) of the NDSP Act. Moreover, nothing has been brought on record to suggest that the proceedings before the learned trial Court are getting unduly procrastinating, so as to dilute the rigors of Section 37 of NDPS Act.

The trajectory of investigation conducted thus far, coupled with the material that has surfaced on record, indicates that the offence in question does not pertain merely to an isolated instance of possession or recovery of a commercial quantity of contraband. Rather, the facts unearthed point towards the existence of a larger and organized criminal conspiracy involving several individuals who appeared to be acting in concert and operating as a syndicate. The investigative inputs suggest that the network pertains to the procurement and distribution of narcotic substances. This Court cannot be oblivious to the

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deleterious impact of such organized drug trafficking. The magnitude of conspiracy, the multiplicity of factors involved, systematic use of unlawful use financial conduits, as also the quantity of contraband involved, call for a response marked by utmost judicial strictness.

8. In the aforesaid premise, the petition stands dismissed.

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

(SUMEET GOEL)
JUDGE

September 15, 2025

Mahavir/naveen

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No