



CRM-M-12366-2025

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

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**CRM-M-12366-2025
Decided on :20.05.2025**

Musthak

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Hukam Singh, Advocate for the petitioner.

Mr. Surender Singh Pannu, Addl. A.G., Haryana.

SANJAY VASHISTH, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, seeking regular bail in case FIR No.110 dated 23.02.2020, under Section 20 of NDPS Act, 1985, registered at Police Station City Sohna, District Gurugram.

2. Learned counsel for the petitioner submits that the petitioner is in custody since 29.02.2024. It is submitted that no recovery has been effected from the petitioner. Rather, 28.830 kilograms of Ganja was allegedly recovered from co-accused Mubin and Tahir. The petitioner has been implicated in the present case solely on the basis of the disclosure statement of the co-accused, which, as per settled law, is inadmissible in evidence against the petitioner unless corroborated by independent evidence.

It is further submitted that out of a total of 17 prosecution witnesses, only 03 witnesses have been examined till date, therefore, trial is likely to take considerable time.

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Learned counsel contends that the petitioner has already undergone incarceration for a period of more than one year and two months, and in view of the prolonged detention and slow pace of trial, the petitioner is entitled to the concession of regular bail.

3. On the other hand, learned State counsel has filed a reply by way of an affidavit of Sh. Jitender, HPS, Assistant Commissioner of Police, Sohna, Gurugram, on behalf of the respondent/State. Same is taken on record. Registry is directed to tag the affidavit at the appropriate place in the paper-book.

Learned State counsel has drawn the attention of the Court to paragraphs No.14, 15, and 16 of the affidavit, and submits that the petitioner was previously convicted in FIR No. 572 of 2013, registered under Section 20 of the NDPS Act at Police Station Nuh, District Mewat, for possession of 3.250 kilograms of Ganja. Further submits that in the other three cases registered under the NDPS Act, (i) FIR No. 808 of 2019, under Section 20 of the NDPS Act, Police Station Bhiwadi, Rajasthan; (ii) FIR No. 139 of 2022, under Section 20 of the NDPS Act, Police Station Model Town, Rewari; and(iii) FIR No. 154 of 2021, under Section 20(b)(ii) of the NDPS Act, Police Station Model Town, Rewari, no recovery was effected from the petitioner. However, in all these cases, the petitioner was implicated based on the disclosure statements of co-accused persons and the trials in these matters are stated to be still pending.

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Additionally, learned State counsel submits that in the year 2021, petitioner was granted interim anticipatory bail, but failed to join the investigation and allegedly absconded, thereby misusing the concession of bail. Consequently, his anticipatory bail was dismissed on 17.11.2021. It is only thereafter that the petitioner was arrested on 29.02.2024.

Learned State counsel therefore expresses apprehension that if the petitioner is released on bail, there is likelihood of his absconding again, which may further delay the trial proceedings.

It is further submitted that the co-accused, Mubin and Tahir, were earlier granted interim bail on the ground of non-availability of the FSL report within the prescribed period. However, after the FSL report became available, instead of surrendering before the trial Court or applying for regular bail, both absconded, and were later re-arrested. Their respective bail applications for regular bail were dismissed vide orders dated 07.03.2024 and 15.02.2024, respectively. Therefore, learned State counsel prays for the dismissal of the present petition.

4. Having considered the rival submissions, and taking into account that the co-accused persons, from whom the contraband was actually recovered, are also in judicial custody, and further noting that the petitioner has already undergone custody for approximately one year and two months, this Court observes that out of a total of 17 prosecution witnesses, only 03 have been examined till date, which clearly indicates that the conclusion of the trial is likely to take considerable time.



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In view of the above, this Court is of the considered opinion that the petitioner may be afforded an opportunity to rehabilitate and reintegrate into society.

Considering the aspects and circumstances, prayer made in the present petition is **allowed**. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

5. The observation made hereinabove shall not be construed as an expression of opinion on the facts of the case and the Trial Court is expected to decide the case on the basis of complete evidence available on record.

6. It is further made clear that if in future petitioner is found indulged in similar kind of activities, prosecution would be at liberty to seek cancellation of bail in the present case.

7. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

20.05.2025

Rashmi

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No