



CRM-M-14045-2025(O&M)

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

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CRM-M-14045-2025(O&M)
Decided on :15.09.2025

Ajay Masih alias Mithu

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Himanshu Bansal, Advocate for the petitioner.

Mr. Neeraj Madaan, Sr. DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, seeking regular bail in case FIR No.214 dated 23.11.2023, under Sections 21(c), 25, 27, 29, 61 and 85 of NDPS Act and Sections 473 and 411 of IPC, registered at Police Station Nahianwala, District Bathinda.

2. As per the allegations, the petitioner—Ajay Masih @ Mithu—and his co-accused, Muskan (daughter of Ramesh Kumar), were apprehended while riding an Activa scooter bearing registration No. PB-29AC-4130. Upon search of a black-colored kit bag in their possession, a transparent white polythene packet containing a white powdery substance, suspected to be Heroin/Chitta, was recovered. Upon weighing, the substance was found to be 253 grams. In addition to the contraband,



Indian currency amounting to ₹93,000/- was also recovered from the said kit bag.

Subsequently, based on the disclosure statement of the petitioner, Ajay Masih, an additional 10 grams of suspected heroin was recovered along with ₹5,30,500/- in cash. Furthermore, on the basis of his disclosure, more individuals namely, Chandan @ Tullu and Akash (brother-in-law of Muskan) as well as one Rajni, were nominated as co-accused in the present case.

3. Learned counsel for the petitioner contends that there has been a violation of the mandatory provisions of the NDPS Act pertaining to search and seizure. No independent witness was joined during the recovery proceedings. It is further submitted that although 253 grams of heroin were recovered—slightly exceeding the commercial quantity threshold of 250 grams—the petitioner is a first-time offender and has been in custody since 22.11.2023.

4. Learned counsel further submits that the co-accused, Muskan, has already been granted the concession of bail vide order dated 27.02.2025 passed by a Co-ordinate Bench of this Hon'ble Court in CRM-M-45067-2024. Out of a total of 16 prosecution witnesses, only three have been examined so far. The conclusion of the trial is likely to take a considerable amount of time. Therefore, prays for the grant of regular bail.

5. Learned counsel for the State, on the other hand, contends that offences of this nature are on the rise, and since a commercial



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quantity of contraband has been recovered from the accused, the bar under Section 37 of the NDPS Act would apply to the grant of bail.

Learned State counsel further submits that the petitioner is a habitual offender, being involved in three other cases, details of which are as follows:

i) FIR No. 76 dated 27.04.2024, under Sections 21(b)/29/61/85 of the NDPS Act, registered at Police Station Canal Colony (petitioner is on bail);

ii) FIR No. 127 dated 03.12.2017, under Sections 379B/411 IPC, registered at Police Station Kulgari (under trial);

iii) FIR No. 19 dated 10.02.2025, under Sections 363, 376, 506, 34 IPC, registered at Police Station Cantt, Ferozepur (petitioner stands acquitted).

Learned State counsel, therefore, opposes the grant of bail on the ground that the petitioner poses a potential threat to the society, and granting him bail at this stage may hamper the ongoing trial and investigation.

6. Having heard learned counsel for the parties and perused the record.

7. In the cases of 'Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021)' decided on 11.11.2022, 'Jang Kanwar Versus State of Punjab (CRM-M-



53415-2021)' decided on 19.01.2022, 'Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023', and Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023, where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.

8. Since the quantity of contraband allegedly recovered is only 3 grams above the upper limit of non-commercial quantity, i.e., 250 grams, and the prosecution has yet to establish whether the contraband was weighed with or without the polythene bag, it cannot be conclusively said at this stage that the recovered substance, falls within the scope of commercial quantity under the NDPS Act.

Moreover, the procedure adopted for weighing the contraband has not been clearly demonstrated on record, raising doubts as to the accuracy of the total weight. The additional recovery, allegedly made pursuant to the disclosure statement of the petitioner, is also subject to judicial scrutiny before the learned Trial Court, which will determine



the legality and evidentiary value of such statement during the course of the trial.

It is also noticed that petitioner is in custody since 22.11.2023, and the trial is likely to take considerable time, as only three out of sixteen prosecution witnesses have been examined to date. In these circumstances, and without expressing any opinion on the merits of the case, this Court is of the view that the petitioner deserves to be released on regular bail, subject to stringent conditions to ensure his availability during trial and to prevent the possibility of misuse of liberty.

Consequently, 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.

9. Petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that she is not involved in any other case except the present one.

10. In addition, petitioner (or anyone on her behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

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11 Any of the discussion done and recorded hereabove, shall not be construed as an expression of opinion on the facts of the case. Therefore, trial Court is expected to decide the case by taking an independent view, on the basis of evidence available on record, as expeditiously as possible in accordance with law.

12. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

15.09.2025*Rashmi*

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