



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

227

CRM-M-16931-2025

Date of decision: 2nd December, 2025

Gurbalraj Singh @ Fauji

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Riffi Birla, Advocate for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 82 dated 23.07.2024 registered under Sections 21 and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') at Police Station Khuian Sarwar, District Fazilka.

2. The aforementioned FIR was registered on the basis of allegations that on 23.07.2024, a secret information was received to the effect that the accused Dimple Kumar and Sukhvir Singh were involved in the business of sale of heroin and on that particular day, they were coming from Abohar side in a swift car. It was further informed that they could be apprehended with contraband. Believing the secret information to be true, a barricade was laid at the informed place. The accused Dimple and Sukhbir



Singh were apprehended. 525 grams of heroin was recovered from their conscious possession which was kept in the car occupied by them which was taken into possession. They were formally arrested.

3. As per the further allegations, on 23.07.2024, accused Dimple Kumar suffered disclosure statement on the basis of which the present petitioner and co-accused Arshdeep were nominated as additional accused. Both of them were arrested on 23.07.2024 and on the basis of disclosure statements alleged to be suffered by them, the other co-accused were also nominated and arrested. Investigation now stands completed and the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of disclosure statement of the co-accused which cannot be considered to be admissible in evidence. He is in custody since 23.07.2024. Trial will take considerable time to conclude as out of twelve prosecution witnesses, none has been examined so far. His continued detention would not serve any useful purpose. The rigors of Section 37 of NDPS Act are not attracted against him. Co-accused Husandeep Singh @ Hushandeep, whose case is on similar footing, has been extended benefit of bail. On parity, he too deserves to be extended the same benefit. It is, therefore, urged that the petition deserves to be allowed.

5. Status report has been filed. It is argued by learned State counsel that keeping in view the gravity of the allegations levelled against the petitioner, he does not deserve to be released on bail. Therefore, it is urged that the petition does not deserve to be allowed.



6. This Court has heard learned counsel for the parties at considerable length.

7. The well settled proposition of law is that the Court while considering an application for grant of bail has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of accused absconding or fleeing, if released on bail and reasonable apprehension of the witnesses being threatened. The period of incarceration is also relevant fact that is to be considered. It is also unequivocally established that, to be granted bail, the accused charged with offence under the provisions of NDPS Act must fulfill the conditions stipulated in Section 37 of the Act. A contention has been raised that the rigors of Section 37 of the NDPS Act are attracted in the present case as there is recovery of commercial quantity of contraband.

7. The case of the prosecution is that the name of the petitioner was disclosed by the co-accused Dimple Kumar, from whom recovery of commercial quantity of heroin has been effected. In ***Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1***, it was observed by Hon'ble Apex Court that the disclosure statements made under Section 67 of NDPS Act, are inadmissible in evidence unless corroborated by independent material. While the veracity of the disclosure statement against the petitioner will be tested during the course of trial, however, at this stage, it cannot be ignored that no recovery was ever effected from the petitioner. The petitioner has clean



antecedents. In view of the above discussion, this Court is of the opinion that the bar under Section 37 of the NDPS Act does not come in the way of granting bail to the petitioner. The petitioner is in custody since 23.07.2024. Challan has been presented but even charges have not been framed. In such circumstances, the trial is likely to take long time to conclude. The object of jail is to secure the appearance of the accused during the trial and it can neither be punitive nor preventive and the deprivation of liberty has been considered as a punishment. As per the discussion made above, this Court is of the considered opinion that a case for release of the petitioner is made out. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/ Duty Magistrate concerned and on the following conditions:-

- (i) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case in any manner whatsoever.
- (ii) he shall not leave the country under any circumstance without permission of the learned trial Court.
- (iii) he shall appear before the learned trial Court as and when directed.
- (iv) he shall provide his address where he would be residing after release and shall not change the same without informing the concerned IO/SHO.
- (v) the petitioner shall upon his release give his mobile phone



number to concerned IO/SHO and shall keep his mobile phone switch on all times.

8. In the event of there being any FIR/complaint lodged against the petitioner, it shall be open to the respondent to seek redressal by filing an application seeking cancellation of bail.
9. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and shall not influence the outcome of the trial.
10. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

2nd December, 2025
Parveen Sharma

1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No