



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

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**CRM-M No.19734 of 2025
Date of decision : 24.7.2025**

Dilbag @ Baga**.....Petitioner****Versus****State of Haryana****.....Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Ms. Amandeep Kaur, Advocate, for the petitioner

Mr. Gurmeet Singh, AAG, Haryana

SUMEET GOEL, J. (ORAL)

1. Present second 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 FIR No.81 dated 4.4.2024, under Sections 20(c) of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Uchana, District Jind.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Today, I ASI Avatar Singh 649 along with HC Hardeep Singh 632, Constable Somnath 1305, Constable Satyawar 1058 and SPO Sandeep 899 along with personal laptop and printer were present under the over bridge of highway in village Barauda in a Government vehicle bearing No. HR 31GV 1748 being driven by Constable Jangir 1235 while on duty to deter the crime; secret informer told me that Randhir Singh @ Dhira son of Meghraj resident of Barauda and Dilbag @ Baga son of Dharam Singh resident of Bhartana who are in the business of selling charas would assemble on the highway road from village Barauda towards Khatkar



near Goli Ka Dhaba in relation to sale/purchase of charas and they are on a motorcycle make Hero Splendor bearing No. HR33 F 8903 and in case a raid is conducted after noticing the things near Goli Ka Dhaba then they can be apprehended with Charas. Upon believing the information as true and correct, I wrote a Notice under Section 42 of the NDPS Act separately and sent the same to Senior Officials through Constable Satyawar 1058 at Police Station Uchana. Senior Officials be apprised about the information. Then, I apprised 6-7 persons who were going through the road about the facts of the case and asked them to join the raiding party but they all disclosed their difficulties and went away from the spot without disclosing their name and address. Then, I ASI apprised my colleagues about the information and constituted a raiding party and then we proceeded towards Goli Ka Dhaba on highway road from Barauda towards Khatkar. When we reached near Goli Ka Dhaba situated at Jind-Khanori Highway, we noticed that two young persons were sitting on a motorcycle under the highway road near Goli Ka Dhaba and they were talking with each other and they after noticing the Government vehicle of Police approaching towards them became perplexed, and they tried to run through their motorcycles towards village Barauda but in the meantime, as the engine of motorcycle stopped, I ASI apprehended them from the motorcycle with the help of colleagues. Upon asking their name and addresses; the driver of the motorcycle disclosed his name as Dilbag @ Baga son of Dharam Singh resident of Village Bhartana and the person who was pillion rider on the motorcycle disclosed his name as Randhir Singh @ Dhira son of Meghraj resident of Barauda. Upon checking the make of motorcycle it was found Hero Splendor bearing Registration No. HR 33F 8903, Black Colour. Then, upon suspecting some intoxicant substance with Dilbag @ Baga son of Dharam Singh resident of Village Bhartana and Randhir Singh @ Dhira son of Meghraj resident of Barauda or with their motorcycle, I served separate notices upon them under Section 50 of the NDPS Act to the effect that I ASI Avatar Singh 649, CIA Staff Narwana inform you (Dilbag @ Baga son of Dharam Singh resident of Bhartana) through this Notice that I suspect some intoxicant substance-Charas with you and with your motorcycle make Hero Splendor No. HR 33F 8903, and therefore, your personal search and the search of your motorcycle is to be conducted; you have a legal right under the NDPS Act that in case you want your personal search and the search of your motorcycle to be



conducted through some nearest Magistrate or Gazetted Officer then they can be called at the spot or you can be produced before the nearest Magistrate or Gazetted Officer for search, you explain the situation. Then, similar Notice under Section 50 of the NDPS Act was served upon Randhir Singh @ Dhira son of Meghraj resident of Barauda. That they both read their notices under Section 50 of the NDPS Act respectively and after understanding the same got recorded their reply that I Dilbag Singh @ Baga son of Dharam Singh resident of Bhartana have read, heard and understood the Notice given by you under Section 50 of the NDPS Act. I want my personal search and the search of my motorcycle Make Hero Splendor bearing No. HR 33F 8903 while appearing before some Gazetted Officer and I may be produced before some Gazetted officer. The another person Randhir @ Dhira named above also got recorded in his reply of Notice under Section 50 of the NDPS Act that he may also be produced before some Gazetted Officer. That Dilbag and Randhir @ Dhira named above signed the Notices under Section 50 of the NDPS Act and their reply, which were also signed by witnesses. Then, I ASI made a telephonic call to the appointed Gazetted Officer in respect of NDPS Act, namely, Sh. Tara Chand, Excise Taxation Officer, Narwana, Jind on his mobile No. 90533-22777 from my mobile No. 70151-37371 at 04:34 P.M. and I apprised him about the facts of the case; the official told me that he is present in the Tehsil Office and asked me to produce both the suspects in his office at Narwana. At that time, Constable Satyawar 1058 after recording a DDR brought a copy of DDR No.21 dated 04.04.2024 at 04:15 P.M. from Police Station Uchana at the spot, he also handed over me copy of Rapat and Notice under Section 42 of the NDPS Act, then I ASI along with colleagues and both the suspects as well as their motorcycle proceeded towards Tehsil Office Narwana. That I ASI along with colleagues reached at Tehsil Office Narwana at 05:05 P.M. Sh. Tara Chand Excise Taxation Officer, Narwana, Jind met me at the gate of Tehsil Office and he was apprised about the facts again. Sh. Tara Chand Excise Taxation Officer, Narwana, Jind conducted my personal search in accordance with law and then he disclosed his identity to Randhir Singh @ Dhira son of Meghraj resident of Barauda and Dilbag @ Baga son of Dharam Singh resident of Bhartana and then directed me to conduct their search as well as the search of recovered Motorcycle. Then, I ASI as per the directions of Gazetted Officer conducted the search of Dilbag @ Baga



son of Dharam Singh resident of Bhartana at first and then Randhir Singh @ Dhira son of Meghraj resident of Barauda in accordance with law; however no intoxicant substance was found from their personal search. Then, I conducted the search of motorcycle make Hero Splendor bearing No. HR 33F 8903 Black Colour and when the bag which was hanging on the left side of motorcycle was opened and checked then a white transparent polythene containing Charas therein in round shape and size was found/recover. They recovered charas was weighed through computer weighing machine then the weight of charas along with transparent polythene came to be 1 Kg 40 Grams. The recovered charas in transparent polythene was again tied with the same thread and then the said transparent polythene was put in a cloth and parcel of the same was prepared, which was sealed by me through my seal bearing impression AS/3 and the same was also sealed by Sh. Tara Chand Excise Taxation Officer, Narwana, Jind through his seal bearing impression SS/1. The sample seal was prepared separately. The Parcel/Pulinda of Charas of white colour cloth and the recovered motorcycle make Hero Splendor No. HR 33F 8903 black colour, were taken into police possession as case property vide Seizure Memo. The Seizure memo of case property was signed by accused Dilbag @ Baga and Randhir @ Dhira as well as the witnesses. The seal after its use and the sample seal were handed over to HC Hardeep Singh 632. The Gazetted Officer after using his seal (SS) kept the same with him. The Gazetted Officer also attested the parcels, sample seal and Seizure memo of case property; he also endorsed/seen the Notices as well as their reply of Section 50 NDPS Act. Accused Randhir Singh @ Dhira son of Megh Raj resident of Barauda and Dilbag @ Baga son of Dharam Singh resident of Bhartana have committed the offence punishable under Section 20(C) of the NDPS Act, 61/85 by keeping 1 KG 40 Grams Charas in their possession. The tehrir after writing is being sent to Police Station through Constable Satyawar 1058 for registration of case F.I.R. The number of case F.I.R. be intimated after its registration. Another investigating officer for further action may kindly be sent at the spot. I ASI along with colleagues, accused and the case property, am present at the spot.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 4.4.2024. Learned counsel has further argued that the



petitioner has been falsely implicated into the FIR in question. Learned counsel has further submitted that the mandatory provision of NDPS Act has not been scrupulously complied with, hence, the prosecution case suffers from inherent defects. Learned counsel has further submitted that the petitioner is stated to be in conscious possession of 1.40 kgs. of charas, which is slightly above the commercial quantity. Learned counsel has further argued that the petitioner is a HIV Positive patient. Learned counsel has further submitted that the petitioner is a man with clean antecedents. Hence, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel has further iterated that the petitioner is accused of offence pertaining to commercial quantity under the NDPS Act, and thus, his bail petition is barred in view of the Section 37 of the Act. Learned State counsel seeks to place on record custody certificate dated 23.7.2025 in Court, which is taken on record.

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

6. The petitioner was arrested on 4.4.2024 whereinafter investigation was carried out and challan in the case was presented on 7.8.2024. Total 16 prosecution witnesses have been cited and it is not in dispute that none of them have been examined till date. Nothing perceptible has been brought forward to indicate that the delay in



culmination of the trial is attributable to the petitioner. The rival contentions raised at Bar give rise to debatable issues which shall essentially be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 23.7.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of one year, three months and sixteen days & is not shown to be involved in any other case.

6.1 It would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in ***Criminal Appeal No.2787 of 2024*** titled as ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another,*** decided on 03.07.2024; relevant whereof reads as under:-

“19 If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly. howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating



Article 21 of the Constitution.”

6.2 The present petition is indubitably the second bail petition on behalf of the petitioner. The first one was dismissed as withdrawn on 22.11.2024. Keeping in view the extended custody of the petitioner when *juxtaposed* with the pace of trial entitles him to grant of regular bail in view of the mandate of Article 21 of the Constitution of India. A profitable reference in this regard is being made to a judgment passed by this Court in ***Rafiq Khan v. State of Haryana and another, CRA No.2332 of 2023*** decided on 22.2.2024.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the



Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.

(vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

24.7.2025
Ashwani

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