



CRM-M-21395-2025

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.

(223)

CRM-M-21395-2025 (O & M)
Date of Decision:-24.07.2025

Vikas

.....Petitioner.

Vs.

State of Haryana

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Rohit Mittal, Advocate and
Mr. Kanhaiya Singhal, Advocate,
for the Petitioner.

Mr. T.P. Singh, Sr. DAG, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case FIR No.256/2023 dated 11.06.2023 under Sections 20C, 29-61/85 NDPS Act, 1985 registered at Police Station Sadar Tauru, District Nuh.

2. The present FIR came to be registered at the instance of Pawan P/SI Crime Branch, Tauru and reads as under:-

Today, on 11-06-2023, at 05:00 PM, I, P/SI, along with colleagues, EHC Gajender No. 518/Nuh, C. Satender No. 676/Nuh, Constable Mausam 595/Nuh, Woman Constable Saroj 954/Nuh, with a tabletop and printer, in government vehicle Scorpio HR-03-T-3494, driven by EHC Sharif 3/367, were present at Bilaspur Tauru Road Jhamuwas Mod for patrol and



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investigation of crime. A special informant met PSI and informed him that Dharmendra son of Balbir, resident of Chhara Jhajjar, Shravan Kumar son of Mungaram, resident of Sangu, Rajasthan, Arvind son of Satpal, resident of Kolinda Ka Bass, Rajasthan, and Vikas son of Lachhiram, resident of Jharoda, Delhi, have come to the house of Dashrath son of Vijay Kumar, resident of Jhamuwas, Police Station Sadar Tauru, District Nuh, to give narcotic substance, Ganja, to his mother. If Dashrath's house is raided immediately, all the people can be caught with the Ganja on the spot. Considering the information reliable, PSI informed his fellow employees about the informer and prepared a raiding party. As per the situation, a written notice under Section 42 of the NDPS Act was separately prepared and sent to Police Station Sadar Tauru through C. Satender No. 676/Nuh for recording in the daily report. An attempt was made to make the people coming and going at the spot witnesses, but everyone expressed their inability and left the spot without giving their names and addresses. I, P/SI along with my fellow employees, in the government vehicle, with the special informer, reached inside the house of Dashrath son of Vijay Kumar, resident of Jhamuwas, Police Station Sadar Tauru, District Nuh. 4 people were seen there, each holding a plastic bag in their hands. Seeing the police party, they tried to run away after throwing the plastic bags in their hands, but I, P/SI, with the help of the fellow employees, immediately took them into custody along with the bags and asked their names and addresses. They revealed their names as Dharmendra son of Balbir, resident of Chhara, Police Station Asouda, District Jhajjar, Shravan Kumar son of Mungaram, resident of Sengu, Police Station Bisau, District Jhunjhunu, Rajasthan, Arvind son of Satpal resident of Kolinda Ka Bass Uttar, Police Station Dhanuri, District Jhunjhunu, Rajasthan, and Vikas son of Lachhiram,



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resident of Jharoda Kalan, Police Station Baba Haridas Nagar, Delhi. A woman, Mukesh wife of Vijay Kumar, resident of Jhamuwas, Police Station Sadar Tauru, District Nuh, was present inside the north-western room of the house. 3 plastic bags and an electronic scale were found near her in the room, and 2 bundles of 500 rupees each, totaling one lakh rupees, were recovered from her right hand. Two vehicles, a Brezza No. DL6CR-0688, white in color, and a Swift No. DL8CAX-6470, white in color, were found parked outside the house. I, P/SI, gave separate notices under Section 50 of the NDPS Act to the arrested individuals, stating that I suspect the plastic bags recovered from them contain narcotic substances and that the plastic bags recovered from them need to be searched. You have the legal right to have these plastic bags searched in the presence of a Duty Magistrate/Gazetted Officer if you wish. On the notice, Dharmendra, Shravan Kumar, Arvind Kumar, Vikas, and Mukesh wrote down their separate replies to I, P/SI, stating that they want their search to be conducted in front of the Duty Magistrate and that you can call them to the spot. After receiving the written reply notices from all the accused, the arrested Dharmendra, Shravan Kumar, Arvind Kumar, Vikas, and Mukesh, and the witnesses signed the notices and reply notices. After informing Duty Magistrate Yakub Khan, ADO Agriculture Department Tauru, about the informer's situation, I informed Duty Magistrate Yakub Khan about coming to the spot by calling on his mobile number 9812357494 from my personal mobile phone number 9466642191. At 05:30 PM, Duty Magistrate Shri Yakub Khan, Agriculture Department, arrived at the spot in a government vehicle.

After making him aware of the situation, the notice under Section 50 of the NDPS Act and the reply notice were shown to him. The Duty Magistrate directed I, P/SL, to search the recovered plastic bags one by one. As per the orders of the Duty



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Magistrate, I, P/SI, searched the plastic bag recovered from Dharmendra son of Balbir, resident of Chhara, Police Station Asouda, District Jhajjar, and 4 bundles with khaki tape were recovered. Upon opening and checking them, narcotic substance Ganja was found, according to my and the Duty Magistrate's experience. The recovered bundles were placed back in the same plastic bag and marked A-1. The recovered Ganja bundles, along with the plastic bag, weighed 20.352 kilograms on an electronic scale. When the plastic bag recovered from Shravan Kumar son of Mungaram, resident of Sengu, Police Station Bisau, District Jhunjhunu, Rajasthan, was searched, 4 bundles with khaki tape were recovered. Upon opening and checking them, narcotic substance Ganja was found, according to my and the Duty Magistrate's experience. The recovered bundles were placed back in the same plastic bag and marked A-2. The recovered Ganja bundles, along with the plastic bag, weighed 20.630 kilograms on an electronic scale. Arvind son of Satpal, resident of Kolinda Ka Bass Uttar, Police Station Dhanuri, District Jhunjhunu, Rajasthan, when the plastic bag recovered from him was searched, 4 bundles with khaki tape were recovered. Upon opening and checking them, narcotic substance Ganja was found, according to my and the Duty Magistrate's experience. The recovered bundles were placed back in the same plastic bag and marked A-3. The recovered Ganja bundles, along with the plastic bag, weighed 20.614 kilograms on an electronic scale. Vikas son of Lachhiram, resident of Jharoda Kalan, Police Station Baba Haridas Nagar, Delhi, when the plastic bag recovered from him was searched, 4 bundles with khaki tape were recovered. Upon opening and checking them, narcotic substance Ganja was found, according to my and the Duty Magistrate's experience. The recovered bundles were placed back in the same plastic bag and marked A-4. The recovered Ganja bundles, along with



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the plastic bag, weighed 20.560 kilograms on an electronic scale. Mukesh wife of Vijay Kumar, resident of Jhamuwas. Police Station Sadar Tauru, District Nuh, when the 3 plastic bags recovered from her were searched, a total of 12 bundles with khaki tape were recovered, 4 from each plastic bag. Upon opening and checking them. narcotic substance Ganja was found, according to my and the Duty Magistrate's experience. The recovered bundles were placed back in the same plastic bags and marked A-5, A-6, and A-7.

The recovered Ganja bundles, along with the plastic bags, weighed 15.476 kilograms in A-5, 20.898 kilograms in A-6, and 20.550 kilograms in A-7 on an electronic scale. The total weight of Ganja from all the bags, including the plastic bags, was 139.28 kilograms. The photography of the scene was done by C. Mausam 595/Nuh from my mobile phone, and after tying the mouths of all the recovered Ganja bags, I, P/SI, put my seal AK/1 on all the bags, and the Duty Magistrate put his seal RK/I. After sealing, they were handed over to EHC Gajender 518/Nuh. The vehicles standing outside the house, Brezza No. DL6CR-0688, white in color, and Swift No. DL8CAX-6470, white in color, along with the electronic scale and 7 Ganja bags weighing a total of 139.28 kilograms, were taken into police possession as evidence through a seizure memo. Separate seal samples were prepared. The Witnesses and the accused signed the seizure memo. The Duty Magistrate also verified all the notices, reply notices, and recovery memos. The accused Dharmendra, Shravan Kumar, Arvind Kumar, Vikas, and Mukesh, by possessing a total weight of 139.28 kilograms of Ganja, committed an offense under Section 20 C-61-85 of the NDPS Act. Therefore, this written report is being sent through Constable Satender 676/Nuh to Police Station Sadar Tauru for registering the case. After registering the case, I should be informed by slip number. 1, P/SI, am the



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complainant in this case, so another investigating officer should be sent to the scene for further investigation. The special report of this case should be sent to the Area Magistrate and senior officers through a special messenger. I, P/SI, along with my fellow employees, along with the case property and the government vehicle, am busy investigating the case at the scene. Today and within the limits of village Jhamuwas. SD-Pawan PSI Crime Branch Tauru Dated 11-06-2023 AT 09-50 PM.

A total recovery of 139.28 kgs. of ganja came to be effected from the petitioner-Vikas and his co-accused.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The mandatory provisions of Sections 42 and 50 of the NDPS Act had not been complied with in their proper perspective. No independent witness was joined at the time of search and seizure. As he was a first-time offender, in custody since 11.06.2023 and only 03 out of the 30 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail in view of the judgment of the Hon'ble Supreme Court in the case of Nitish Adhikary @ Bapan Versus The State of West Bengal, SLP (Crl.) Nos.5769/2022 arising out of judgment and order dated 04.05.2022 in CRM(NDPS) No.442/2022, decided on 01.08.2022 and Hasanujjaman & others Versus The State of West Bengal, SLP (Crl.) No.(s).3221/2023 arising out of impugned final judgment and order dated 29.11.2022 in CRM(NDPS) No.1323/2022, decided on 04.05.2023,

5. On the other hand, the learned State counsel contends that commercial quantity of contraband had been recovered from the petitioner



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and his co-accused. Therefore, in view of the bar contained under Section 37 of the NDPS Act, the petitioner was not entitled to the grant of bail. The co-accused of the petitioner had sought the concession of bail earlier and had not been granted the said concession. He, however, concedes that the petitioner was a first time offender, in custody since 11.06.2023 and only 03 out of the 30 prosecution witnesses had been examined so far.

6. I have heard the learned counsel for the parties.

7. The Hon'ble Supreme Court in the case of Nitish Adhikary @ Bapan Vs. The State of West Bengal SLP (Crl.) Nos.5769/2022 Decided on 01.08.2022 held as under:-

“As per the office report dated 29.07.2022, copy of the show cause notice along with Special Leave Petition was supplied to the Standing Counsel for the State of West Bengal and separate notice has been served on the State also. However, no one has entered appearance on their behalf.

The petitioner seeks enlargement on bail in F.I.R. No. 612 of 2020 dated 17.10.2020 filed under Section 21(c) and 37 of the NDPS 2 Act, registered at Police Station Bongaon, West Bengal.

During the course of the hearing, we are informed that the petitioner has undergone custody for a period of 01 year and 07 months as on 09.06.2022. The trial is at a preliminary stage, as only one witness has been examined. The petitioner does not have any criminal antecedents.

Taking into consideration the period of sentence undergone by the petitioner and all the attending circumstances but without expressing any views in the merits of the case, we are inclined to grant bail to the petitioner.

The petitioner is accordingly, directed to be released



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on bail subject to him furnishing bail bonds to the satisfaction of the Trial Court.

The Special Leave Petition is disposed of on the aforestated terms.

Pending application(s), if any, shall stand disposed of.”

8. In **Hasanujjaman & others Versus The State of West Bengal, SLP (Crl.) No.(s).3221/2023, decided on 04.05.2023,** held as under:-

“1. There are three petitioners in this Special Leave Petition, who were accused of committing an offence under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, ‘NDPS Act’) in FIR No.18/2022, dated 09.01.2022, registered at Police Station Islampur, District Murshidabad, West Bengal.

*2. The allegations are that when the police party intercepted the petitioners along with another person riding on two motorcycles, they were found in possession of codeine phosphate in a consignment of phensedyl bottles loaded in two nylon bags. During the search, 115 bottles (100 ml. each) of phensedyl were recovered from the joint possession of the petitioners. **They were arrested on the spot and have been in custody for more than one year and four months.***

3. We have heard learned counsel for the parties and carefully perused the record.

4. The investigation is complete; chargesheet has been filed, though the charges are yet to be framed. The conclusion of trial will, thus, take some reasonable time, regardless of the direction issued by the High Court to conclude the same within one year from the date of framing of charges. The petitioners do not have any criminal antecedents. There is, thus, substantial compliance of Section 37 of the NDPS Act.

5. In such circumstances, but without expressing any views



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on the merits of the case, we deem it appropriate to release the petitioners on bail subject to the terms and conditions as may be imposed by the Trial Court.

6. Additionally, it is clarified that in case the petitioners are found involved in any other case under the NDPS Act or other penal law, it shall amount to misuse of the concession of bail granted to them today, and in such a case, necessary consequences shall follow.

7. The petitioners are further directed to appear before the Trial Court regularly. In the event of they being absent, it shall again be taken as a misuse of concession of bail.

8. The Special Leave Petition stands disposed of in the above terms.

9. As a result, pending interlocutory application also stands disposed of.

(emphasis supplied)

9. Admittedly, in '**Nitish Adhikary @ Bapan (supra) and Hasanujjaman & others (supra)**', the accused therein had been granted the concession of bail by the Hon'ble Supreme Court after they had undergone approximately one and a half years of custody. They were also first-time offenders as is borne out from the orders.

10. The co-accused of the petitioner, namely, Dasrath, Krishan Kumar, Dharmender, Mukesh Devi and Sarvan Kumar had sought the concession of regular bail at earlier stages and the said bail applications came to be withdrawn vide orders dated 06.10.2023, 12.03.2024, 23.04.2024, 02.08.2024 and 22.01.2025 respectively. Be that as it may, the petitioner is stated to be in custody since 11.06.2023 and only 03 out of the 30 prosecution witnesses have been examined so far. He is also a first-time offender with no other case registered against him. In this situation, the



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rigors of Section 37 of the NDPS Act can be diluted to an extent in view of the salutary provisions of Article 21 of the Constitution of India which provides for the right to a speedy trial and the case of the petitioner can be considered for the grant of bail.

11. Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner-Vikas is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

12. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case under the NDPS Act.

13. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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.

14. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

July 24, 2025
sukhpreet

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