

CRM-M-23879-2025

2025:PHHC:127353

216 (4th case)**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-23879-2025

Date of decision: September 15, 2025

Boota Singh alias Buta Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Sahil Soi, Advocate for the petitioner.

Mr. Jaypreet Singh, DAG Punjab.

SUMEET GOEL, J. (ORAL)

Present 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 bearing FIR No.226 dated 15.11.2024, registered for the offences punishable under Sections 15, 25, 27-A, 29, 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') [Section 31 of the NDPS Act, Sections 25, 54 of the Arms Act, 1959 (for short 'Arms Act') and Section 25(1)(B) of the Arms Act added later on], at Police Station Sadar, Jalandhar District Police Commissionerate, Jalandhar.

2. The gravamen of the FIR in question is that on 15.11.2024, at about 12:05 a.m., co-accused, namely, Guravtar Singh Tari (driver) and Des Raj (co-passenger) while they were travelling in a car bearing registration No.PB-09-Q-4590, and similarly, another co-accused, Daler Singh, who was driving vehicle

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No.PB-08-DS-4993, were apprehended by the police, and total contraband of 15 Quintals 40 kg of poppy-husk and one country-made pistol were allegedly recovered from them. Pursuant to the disclosure statement of another co-accused, namely, Joga Singh, the present petitioner has been implicated as an accused in this case.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has argued that prime prosecution material available against the petitioner is the disclosure of co-accused, which *per se* is not tenable in law. Learned counsel has argued that nothing has been recovered from the petitioner. Learned counsel has iterated that the petitioner has already suffered incarceration of about 10 months. Thus, regular bail is prayed for.

4. *Per contra*, learned State counsel has filed the custody certificate dated 14.09.2025 as also status report by way of an affidavit dated 19.08.2025 of Paramjit Singh, PPS, Additional Deputy Commissioner of Police, Jalandhar, in the Court, which are taken on record. Relevant of the aforesaid status report reads thus:

- “19. That during investigation, on 22.11.2024, the accused Joga Singh again suffered disclosure statement that his brother-in-law Buta Singh (present petitioner) son of Jagmohan Singh, resident of village Kot Mamadkhan, police station Dharamkot, District Moga, who earlier used to work as a laborer, then he got involved with him and took the consignment of poppy husk from him and sold it in retail in his area Dharamkot, District Moga and earned a lot of money.
- 20. That thereafter, the present Petitioner was nominated on this basis of disclosure statement of accused Joga Singh vide DDR no. 08 dated 22.11.2024. The police party headed by SI Jaswinder Singh apprehended the present petitioner on 22.11.2024 in this case.
- 21. That during the course of investigation, on 25.11.2024, co-accused Joga Singh revealed during the police remand vide disclosure statement dated 25.11.2024 that he has been working for selling the poppy husk on a large scale for the past several years. Poppy husk was supplied to him by a contractor named Munish alias Kali from

Rajasthan and Madhya Pradesh. He gave the order by calling on his abroad number through WhatsApp and the contractor would send it to Nakodar on the truck of one of his acquaintances.

He further disclosed that only contractor Munish knew about the truck. Then he used to supply the poppy husk to his customer. On 13.11.2024 in the night, he received a call from Munish, who told that poppy husk have been unloaded on the kacha rasta near Nakodar petrol pump, take it from there. He further disclosed that then he told Daler Singh about arrival of poppy husk, on which Daler Singh, Des Raj, Guravtar Singh and Lucky reached the place indicated by him. He further disclosed that where he had given 10 sacks to co-accused Lucky. 15 sacks were kept in Daler Singh's car Innova and 55 sacks were kept in Guratar Singh and Des Raj's car Mahindra Bolero Capper and rest was kept by him in his car. Out of these, he had given some sacks to Lakhwinder, resident, of Latiyawal and some sacks to Kehar Singh, resident of Toti Madiala. For the supply of poppy husk, he used to give some money to the truck driver and he used to send the rest of the money to Munish through a money laundering from Ludhiana. The person who transfers amount through hawala (money laundering) would come to Ludhiana and take the money on a scooter, whose faces he can recognize. Daler Singh, Des Raj and Guravtar Singh got arrested with 70 bags by the police; then he took the sacks and went towards Nakodar side. He had also kept a desi katta for his protection. He had brought this desi katta from a person who runs dhaba at Indore.”

4.1. Raising submissions in tandem with the aforesaid status report has argued that the case in hand pertains to recovery of commercial quantity of narcotics and thus, bail plea of the petitioner is barred by Section 37 of the NDPS Act. On the strength of these submissions, dismissal of the present bail petition is entreated for.

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

6. Indubitably, the bail plea in hand pertains to an FIR under the NDPS Act involving recovery of 1540 kg. of poppy-husk, which is commercial quantity, *ergo* the bail petition in hand has to be considered in light of the rigors contained in Section 37 of NDPS Act. In this regard, reliance can be placed upon *dicta* of this Court passed in ***Jaswinder Singh alias Kala versus State of Punjab*** passed in ***CRM-M-33729-2025 (2025:PHHC:089161)***; wherein after

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relying upon the *ratio decidendi* of the judgments of the Hon'ble Supreme Court in Union of India versus Thamisharasi & Ors, 1995 (4) SCC 190, Customs, New Delhi vs. Ahmadalieva Nodira, 2004 (3) SCC 549, Union of India vs. Shri Shiv Shanker Kesari, 2007 (4) RCR (Criminal) 186, Satpal Singh vs. State of Punjab, 2018 (13) SCC 813, Narcotics Control Bureau vs. Mohit Aggarwal, 2022 LiveLaw (SC) 613, Mohd. Muslim @ Hussain vs. State (NCT of Delhi), 2023 LiveLaw (SC) 260, Narcotics Control Bureau vs. Kashif, 2024 INSC 1045, Usmanbhai Dawoodbhai Memon vs. State of Gujarat, 1988(1) RCR (Criminal) 540, Ranjitsing Brahmajeetsing Sharma vs. State of Maharashtra & Anr. 2005(5) SCC 294, Central Bureau of Investigation vs. Vs. Vijay Sai Reddy, 2013(3) RCR (Criminal) 252, Municipal Corporation of Delhi vs. M/s Jagan Nath Ashok Kumar and another, 1987(4) SCC 497, Gujarat Water Supply and Sewerage Board vs. Unique Erectors (Gujarat) (P) Ltd., and another, 1987(1) SCC 532, Collector and others vs. P. Mangamma and others, 2003(4) SCC 488, Commissioner of Income-tax, Delhi vs. S. Teja Singh, 1958 SCC Online SC 30, Management of Advance Insurance Co. Ltd. Vs. Shri Gurudasmal and others 1970(1) SCC 633, Tinsukhia Electric Supply Co. Ltd. Vs. State of Assam, 1989(3) SCC 709 and Commissioner of Income Tax vs. Hindustan Bulk Carriers, 2003(3) SCC 57; it has been held as under:

“14. As a sequitur to above-said rumination, the following postulates emerge:

- (I) (i) A bail plea on merits; in respect of an FIR under NDPS Act of 1985 involving offence(s) under Section 19 or Section 24 or Section 27-A thereof and for offence(s) involving commercial quantity; is essentially required to meet with the rigour(s) of Section 37 of NDPS Act.
- (ii) The rigour(s) of Section 37 of NDPS Act do not apply to a bail plea(s) on medical ground(s), interim bail on account of any exigency including the reason of demise of a close family relative etc.

- (iii) *The rigour(s) of Section 37 of NDPS Act pale into oblivion when bail is sought for on account of long incarceration in view of Article 21 of the Constitution of India i.e. where the bail-applicant has suffered long under-trial custody, the trial is procrastinating and folly thereof is not attributable to such bail-applicant.*
- II. *The twin conditions contained in Section 37(1)(b) of NDPS Act are in addition to the conditions/parameters contained in Cr.P.C./BNSS or any other applicable extant law.*
- III. *The twin conditions contained in Section 37(1)(b) of NDPS Act are cumulative in nature and not alternative i.e. both the conditions are required to be satisfied for a bail-plea to be successful.*
- IV. *For consideration by bail Court of the condition stipulated in Section 37(1)(b)(i) of NDPS Act i.e. “there are reasonable grounds for believing that he is not guilty of such offence”:*
- (i) *The bail Court ought to sift through all relevant material, including case-dairy, exclusively for the limited purpose of adjudicating such bail plea.*
- (ii) *Such consideration, concerning the assessment of guilt or innocence, should not mirror the same degree of scrutiny required for an acquittal of the accused at the final adjudication & culmination of trial.*
- (iii) *Plea(s) of defence by applicant-accused, if any, including material/documents in support thereof, may be looked into by the bail-Court while adjudicating such bail plea.*
- V. *For consideration of the condition stipulated in Section 37(1)(b)(ii) i.e. ‘he is not likely to commit any offence while on bail’:*
- (i) *The word ‘likely’ ought to be interpreted as requiring a demonstrable and substantial probability of re-offending by the bail-applicant, rather than a mere theoretical one, as no Court can predict future conduct of the bail-applicant.*
- (ii) *The entire factual matrix of a given case including the antecedents of the bail-applicant, role ascribed to him, and the nature of offence are required to be delved into. However, the involvement of bail-applicant in another NDPS/other offence cannot ipso facto result in the conclusion of his propensity for committing offence in the future.*
- (iii) *The bail-Court may, at the time of granting bail, impose upon the applicant-accused a condition that he would submit, at such regular time period/interval as may stipulated by the Court granting bail, an affidavit before concerned Special Judge of NDPS Court/Illaq (Jurisdictional) Judicial Magistrate/concerned Police Station, to the effect that he has not been involved in commission of any offence after being released on bail. In*

the facts of a given case, imposition of such condition may be considered to be sufficient for satisfaction of condition enumerated in Section 37(1)(b)(ii).

VI. *There is no gainsaying that the nature, mode and extent of exercise of power by a Court; while satisfying itself regarding the conditions stipulated in Section 37 of NDPS Act; shall depend upon the judicial discretion exercised by such Court in the facts and circumstances of a given case. No exhaustive guidelines can possibly be laid down as to what would constitute parameters for satisfaction of requirement under Section 37 (ibid) as every case has its own unique facts/circumstances. Making such an attempt is nothing but a utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such matter.”*

7. Pertinently, to make out a case involving commercial quantity — twin conditions as enumerated under Section 37 (1) (b) of the NDPS Act are to be met with. The case at hand involves recovery of around 1540 Kg poppy-husk, which is commercial quantity and the name of the petitioner has come up in the disclosure statement of co-accused Joga Singh, and thereafter, vide DDR No.8 dated 22.11.2024, the petitioner was nominated as an accused and has been in custody since. At this stage, it cannot be said that there exist *reasonable grounds* to arrive at the finding that the petitioner has not committed the offence as alleged. *Ergo*, the plea fails to withstand twin conditions as enumerated under Section 37(1) (b) of the NDSP Act. Moreover, nothing has been brought on record to suggest that the proceedings before the learned trial Court are getting unduly procrastinating, so as to dilute the rigors of Section 37 of NDPS Act.

The trajectory of investigation conducted thus far, coupled with the material that has surfaced on record, indicates that the offence in question does not pertain merely to an isolated instance of possession or recovery of a commercial quantity of contraband. Rather, the facts unearthed point towards the existence of a larger and organized criminal conspiracy involving several individuals who appeared to be acting in concert and operating as a syndicate.

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The investigative inputs suggest that the network pertains to the procurement and distribution of narcotic substances. This Court cannot be oblivious to the deleterious impact of such organized drug trafficking. The magnitude of conspiracy, the multiplicity of factors involved, systematic use of unlawful use financial conduits, as also the quantity of contraband involved, call for a response marked by utmost judicial strictness.

8. In the aforesaid premise, the petition stands dismissed.

9. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

September 15, 2025
Mahavir/naveen

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No