

2025:PHHC:130648



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104+225

CRM-38095-2025 in/and
CRM-M No.24579 of 2025
Date of Decision: 19.09.2025

Hakkam ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. S.S. Momi, Advocate,
for the petitioner.

Ms. Himani Arora, DAG, Haryana,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking regular bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
206	09.12.2024	Pratap Nagar, District Yamuna Nagar	21(c) and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’)

2. As per the allegations, on 09.12.2024, on the basis of a secret information, the accused Ammar Ali was apprehended by a police party and 263 grams of heroin was recovered from him. He was interrogated and suffered a disclosure statement on the basis of which the present petitioner was nominated as an accused on the allegation that he was

2025:PHHC:130648



supplier of the contraband to the accused Ammar Ali. The petitioner was arrested on 03.03.2025. Investigation now stands completed.

3. 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. He was not named in the FIR. No recovery has been effected from him. His further incarceration would not serve any useful purpose. It is, therefore, urged that he deserves to be released on bail.

4. While opposing the submissions made by petitioner's counsel and while relying upon the status report, learned Deputy Advocate General, Haryana has vehemently argued that recovery in the present case relates to commercial quantity of contraband thereby attracting the bar under Section 37 of NDPS Act. He is involved in three other cases, one of which is under the provisions of NDPS Act. The call detail record collected during the course of investigation reveals that there were 141 calls between the petitioner and the co-accused Masroor and 1529 calls between the petitioner and the co-accused Ammar Ali during the period from 01.01.2024 to 09.12.2024 and this shows the complicity of the petitioner in the crime. It is, therefore, urged that the petition does not deserve to be allowed.

5. This Court has considered the rival submissions.

6. 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

2025:PHHC:130648



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 NDPS 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 Ammar Ali, from whom recovery of commercial quantity of contraband has been effected. As per his disclosure statement, he had sourced the contraband from the petitioner. 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 respondent has mentioned that calls were exchanged between the phone of the petitioner and the co-accused. Without the transcript of the conversation exchanged between the co-accused and the petitioner, it is a question of

2025:PHHC:130648



debate as to whether, the mere call details can be considered to be corroborative material against him. The petitioner is in custody since 03.03.2025. Challan has been presented but trial will take 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 admitted to bail subject to his furnishing personal bonds as well as surety bonds by two sureties in the like amount each to the satisfaction of learned trial Court/CJM/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

2025:PHHC:130648



- 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. Miscellaneous application(s), if any, also stand disposed of.

19.09.2025
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(MANISHA BATRA)
JUDGE

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