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**(212) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-32552-2025
Date of Decision: 17.11.2025**

KAMAL SINGH SODHIYA

... Petitioner

Versus

UNION OF INDIA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. J.S. Dhaliwal, Advocate
for the petitioner.

Mr. Sourabh Goel, Special Public Prosecutor, NCB with
Ms. Anju Bansal, Advocate
for the respondent.

JASJIT SINGH BEDI, J.

The prayer in this 6th petition under Section 483 of BNSS is for the grant of regular bail in case bearing FIR/NCB No.06 dated 28.03.2025 registered under Sections 8, 18 & 29 of NDPS Act at Police Station NCB, Chandigarh.

2. The brief facts of the case are that Kamal Singh Sodhiya (petitioner) and Govind Singh Sodhiya (granted bail vide order dated 05.06.2025 Annexure P-2) were found in possession of 1.764 Kg of opium on 28.03.2025 in the area of Khamanon.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There is violation of the mandatory provisions of the NDPS Act regarding search and seizure



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including Section 50 of the NDPS Act. The prosecution version is inherently unbelievable. As the petitioner is in custody since 29.03.2025 but none of the 13 prosecution witnesses has been examined so far, the Trial of the present case is not likely to be concluded anytime soon and therefore, he is entitled to the concession of bail moreso when the recovery is of non-commercial quantity of the contraband.

4. On the other hand, the learned State counsel contends that the petitioner is a habitual offender. He is an accused in 01 other case arising out of FIR No.158 dated 19.05.2024 U/s 29 of NDPS Act, P.S. Parao. Therefore, keeping in view the antecedents of the petitioner, he is not entitled to the concession of bail, moreso in view of the bar contained in Section 37 of the NDPS Act.

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

6. The detail of the other FIR registered against the petitioner is as under:-

Sr. No.	FIR Nos. and date	Sections	Police Station
1.	FIR No.158 dated 19.05.2024	29 of NDPS Act	P.S. Parao

7. Apparently, the petitioner is a habitual offender with 01 other case registered against him under the NDPS Act.

8. The Hon’ble Supreme Court in the case of Union of India Versus Vigin K. Varghese, SPL (Crl.) No.7768 of 2025, held as under:-

“14. We have perused the impugned orders dated 22.01.2025 and 12.03.2025. Both orders proceed essentially on four

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planks, absence of knowledge of the cocaine to the respondent in the imported consignment, absence of antecedents, length of custody and perceived delay in conclusion of the trial, and a consequent conclusion that there exist reasonable grounds to believe that the accused is not guilty of the offence.

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16. Further, while granting bail, the High Court recorded that there were no antecedents against the applicant. The material before this Court includes the Union's assertion that the respondent had already been apprehended in connection with an earlier seizure of approximately 198.1 kilograms of Methamphetamine and 9.035 kilograms of Cocaine allegedly imported through the same channel only days before the present seizure. That assertion is neither noticed nor answered in the impugned orders.

17. The High Court then, on the strength of those premises, recorded a finding that there exist reasonable grounds to believe that the applicant is not guilty of the alleged offence, treating prolonged incarceration and likely delay as the justification for bail. Such a finding is not a casual observation. It is the statutory threshold under Section 37(1)(b) (ii) which would disentitle the discretionary relief and grant of bail must necessarily rest on careful appraisal of the material available. A conclusion of this nature, if returned without addressing the prosecution's assertions of operative control and antecedent involvement, risks trenching upon appreciation of evidence which would be in the domain of trial court at first instance.

18. This Court ordinarily shows deference to the discretion exercised by the High Court while considering the grant of

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bail. However, offences involving commercial quantity of narcotic drugs stand on a distinct statutory footing. Section 37 enacts a specific embargo on the grant of bail and obligates the Court to record satisfaction on the twin requirements noticed above, in addition to the ordinary tests under the Code of Criminal Procedure.

19. In the present case, the High Court has not undertaken the analysis of those twin requirements with reference to the material placed by the prosecution. The orders dated 22.01.2025 and 12.03.2025 do not advert to the allegation regarding the respondent's prior involvement in a seizure of narcotic drugs and psychotropic substances only days prior to the seizure forming the subject matter of the present complaint, nor do they engage with the prosecution's assertion as to the respondent's role in arranging, importing, clearing and supervising the consignments. The omission to consider these factors bears directly upon the statutory satisfaction required by Section 37(1)(b).

20. We are of the view that, in the facts of this case, it would not be appropriate for this Court at the threshold stage itself to render findings on whether there are or not reasonable grounds, for believing that the respondent is not guilty, or on whether he is likely to commit any offence while on bail. That factual assessment, which the statute requires to be made and recorded with reasons, is one that the High Court must undertake upon a complete and fair appraisal of the rival contentions based on materials placed before it.

21. In our considered view, the interests of justice would be met if the impugned orders are set aside and the matter is remitted to the High Court for fresh consideration of the respondent's

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prayer for bail, keeping in view the parameters of Section 37 of the NDPS Act, the nature and quantity of contraband alleged to have been seized including 50.232 kilograms of Cocaine on 06.10.2022 and 07.10.2022, the role attributed to the respondent in the said import, the allegation of his involvement in an earlier seizure of 198.1 kilograms of methamphetamine and 9.035 kilograms of cocaine in early October 2022, the period of custody undergone since October 2022, and the stage of trial before the Special Court.

(Emphasis supplied)

9. This Court in the case of **Soni Singh @ Chamkaur Singh Versus State of Punjab, CRM-M-31645-2022, decided on 20.10.2022**, held as under:-

“Admittedly, the petitioner in the present case is named in the disclosure statement of the arrested accused. Subsequently thereto 3Kgs of Poppy Husk was recovered at his instance which is a non commercial quantity. It may be relevant to mention here that limitations to the grant of bail under Section 37 of the NDPS Act are in addition to those prescribed under Cr.PC or any other law inforce on the grant of bail as has been set out by the Hon'ble Supreme Court in Satpal Singh Vs. State of Punjab 2018(5) RCR (Criminal) 152. In the present case, the petitioner is involved in two other cases under the NDPS Act. Thus, as he is a habitual offender, he is not entitled to the grant of bail even under Section 439 Cr.PC keeping in view his antecedents. Even otherwise, assuming that the rigors of Section 37 of the NDPS Act did not apply to the petitioner, that by itself would not ipso facto lead to the grant of bail to the petitioner.

In view of the above discussion, I find no merit in the present petition and the same is therefore dismissed.”

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10. Keeping in view the allegations levelled against the petitioner as well as his antecedents, he is not entitled to the concession of bail at this stage.

11. Therefore, the present petition stands dismissed.

12. However, the Trial Court is directed to conclude the Trial as expeditiously as possible but in any case not later than 06 months from the next date of hearing fixed before it.

(JASJIT SINGH BEDI)
JUDGE

17.11.2025
JITESH

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