

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-36316-2025

Reserved on: 29th August, 2025

Pronounced on: 15th September, 2025

Siraj Rao @ Monu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. V. Vishawjeet, Advocate for
Mr. Sanpreet Sandhu, Advocate for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

MANISHA BATRA, J :-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 128 dated 13.08.2024 registered under Sections 22-C and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS') at Police Station Partap Nagar, District Yamunanagar.

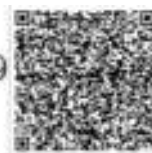
2. As per the allegations, on 12.08.2024, on receipt of a secret information to the effect that the accused Faisal @ Sameer was involved in the business of sale of intoxicating tablets/capsules and could be apprehended with the same, if a barricade was laid in the area of Tejewala Police Post, a raiding party was formed. After sending ruqa to the police station, a barricade was laid at the informed place. The accused Faisal @



Sameer was apprehended while he reached near the barricade on a motor bike. On conducting search, one plastic bag was found kept in the tank of the motorcycle driven by him. 1200 intoxicating capsules of tramadol were recovered from the same qua which the accused could not give any explanation. He was formally arrested. On interrogation, he suffered disclosure statement to the effect that he had purchased the intoxicating capsules from the present petitioner. On the basis of the same, the petitioner was nominated as an accused and was arrested on 19.02.2025. 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 which cannot be considered to be admissible in the evidence. No recovery has been effected from him. He is in custody since long. Investigation stands completed but trial will take time to conclude. His further incarceration would not serve any useful purpose. The call detail record and financial transactions have no relation to the commission of the alleged offence. No bank transaction is shown to have been made from the bank account of the co-accused and the petitioner. There is no transcript of the call details. The charge-sheet has already been filed. There is no need to subject the petitioner to further incarceration. He has clean antecedents. With these broad submissions, it is urged that the petition deserves to be allowed.

4. Status report has been filed. While opposing the submissions made by the petitioner's counsel, learned Assistant Advocate General, Haryana has vehemently argued that recovery in the present case relates to

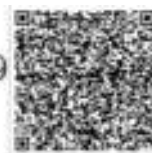


commercial quantity of intoxicating capsules thereby attracting the bar under Section 37 of the NDPS Act. There are financial transactions between the petitioner and the co-accused Faisal. The call details record between the period from 13.06.2024 to 13.08.2024 shows that there were as many as 48 calls that were exchanged between the petitioner and the co-accused. It is further argued that the financial transaction between the petitioner and the co-accused also exists pointing towards his involvement in this case. It is therefore, urged that the petition does not deserve to be allowed.

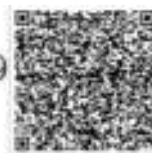
5. This Court has heard learned counsel for the parties at considerable length.

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 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 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 Faisal, from whom recovery of commercial quantity of intoxicating tablets i.e. tramadol 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 placed on record the statement of bank account of the petitioner during the period from 01.02.2024 till 18.06.2024 and has submitted that there was transfer of money from the account of Hussan Bai, mother of the co-accused in the account of the petitioner. That apart, Annexure R-4 to R-7 are screenshots of some bank transactions made from phone-pay alleged to be in the account of the petitioner whose name is mentioned as Monu Bhai from the account of the co-accused showing transfer of different amounts of money which are varying from Rs. 10/- to Rs. 5,000/-. The case of the prosecution that the call detail records of the phone of the petitioner and the one used by the co-accused (though not in his name) also show that there were regular phone calls between them. It is well established that mere call details, without the transcript of the conversations exchanged between the accused persons, would not be considered to be corroborative material in absence of substantive material found against them. In so far as the money transactions are concerned, the fact as to whether, the same were with regard to purchase of contraband can only be



ascertained after the entire evidence is led and not at this stage. The petitioner has clean antecedents. In view of the above discussion, this Court is of the opinion that the bar under Section 37 of the NDPS Act does not come in the way of granting bail to the petitioner. The petitioner is in custody since 09.02.2025. Challan has been presented but even charges have not been framed. In such circumstances, the trial is likely to take long 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 released on bail subject to his furnishing personal/surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/ 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 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. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

15th September, 2025

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*