

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

2025:PHHC:087600



(226)

CRM-M-36443-2025

Date of decision: 17.07.2025

Kellu Mahato @ Kailu Mahato @ Kailash

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.K.Tripathi, Advocate for the petitioner.

Mr.Gurmeet Singh, AAG, Haryana.

SUMEET GOEL, J. (ORAL):

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.0075 dated 13.05.2025 registered for the offences punishable under Sections 20(b)(ii)(b) of NDPS Act, 1985 at Police Station Sector 53, District Gurugram.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“To SHO Sahab, Police Station Sector 53, District Gurugram, Jai Hind, On 12.05.2025, ASI Praveen Kumar 556/GGM along with Constable Ravi Shankar 4055/GGM and Constable Anil 5371/GGM, vehicle private number HR34F9082 and their own laptop, and printer were patrolling and investigating near

Wazirabad red light, Gurugram at 8:00 PM when a special intelligence officer met and informed that a person named Kailu Mahato alias Kailash son of Gujru Mahato, village Harira, police station Kursa Kata, District Araria (Bihar), currently a tenant of Baljeet Yadav's house, resident of Wazirabad Sector 52, Gurugram, is carrying narcotic substance ganja in a white polythene and is going near Rajesh Kumar's house in Radhakrishna Enclave, Wazirabad in search of a customer. If a search is conducted after reaching here, then Kailu will be arrested. Mahato alias Kailash can be controlled along with the drugs, the information is reliable, a notice under section 42 of NDPS Act is being sent Police Station Sector 53, Gurugram through CT Ravi Shankar 4055/GGM for preparing a report in the diary to inform the higher authorities, which 1 along with fellow employees and intelligence officer reached near Radhakrishna Enclave Wazirbad Gurugram. Where when the people coming and going were requested to become witnesses of the incident, all of them expressed their legitimate compulsion and left, due to lack of time notice could not be given to anybody. Who appeared at the same time after getting it registered as CT Ravi Shankar 4055/GGM DDE No. 41 time 09.00 IPM DT 12-05-2025 PS Sector 53 GURUGRAM. After some time, the special messenger pointed towards a person walking in the street near Radhakrishna Enclave, Wazirabad, Gurugram and said that the person wearing a white shirt and black jacket and holding a white plastic bag in his right hand is the above mentioned person Kailu Mahato alias Kailash, who was released on the spot to the messenger and after this, 1, with the help of ASI and fellow employees, overpowered that person and asked his name and address, that person told his name as Kailu Mahato alias Kailash son of Gujru Mahato, village Harira, police station Kursa Kata, district Araria (Bihar), currently a tenant of Baljeet Yadav's house, Wazirabad Sector, 52, Guruyam. Who told Kailu Mahato alias Kailash above that we suspect the presence of narcotic substance in the white colour plastic bag in your hand and that you and the white colour plastic bag held in your right hand need to be searched, and you have the

legal right to get yourself searched in front of a Gazetted Officer or the nearest Magistrate, which you have the legal right to get yourself searched in front of a Gazetted Officer or the nearest Magistrate, which notice under Section 50 NDPS Act was prepared separately and given to Kailu Mahato alias Kailash above, and it was read out and explained to him, which Kailu Mahato alias Kailash above, after listening to and understanding the notice under Section 50 NDPS Act, said that I do not know how to write, I only know to sign and has given consent to get myself searched in front of a Gazetted Officer, on the reply notice also Kailu Mahato alias Kailash above has signed in Hindi, then I ASI sent the notice to the Gazetted Officer Shri Jatin Dalal ETO/DETC(ST), GURUGRAM (NORTH) nominated by the Honorable District Magistrate, Gurugram, from my mobile no. 09416808837 on his mobile number No. I called on 8168194418 at 09.51 PM and requested him to come to the spot. On receiving this information, after some time Gazetted Officer Shri Jatin Dalal ETO/DETC (ST) GURUGRAM (NORTH) reached the spot. I, ASI, informed Gazetted Officer Shri Jatin Dalal ETO/DETC(ST), GURUGRAM (NORTH) about the situation and thereafter the above Gazetted Officer searched me and introducing myself to the arrested Kailu Mahato alias Kailash, ordered me to search Kailu Mahato alias Kailash. I searched the white coloured plastic bag in the right hand of the person arrested by ASI, Kailu Mahato alias Kailash. When I opened the plastic bag and checked it, I found green coloured substance inside the plastic bag. When I smelled it using my experience, I found green coloured intoxicant substance, ganja and Kailu Mahato alias Kailash also said it to be ganja and I checked the pant worn by Kailu Mahato alias Kailash. From the right pocket, Rs. 260 (two notes of Rs. 100 each and 3 notes of Rs. 20 each) and a mobile phone brand OPPO, white in colour, inside which was an Airtel SIM card number 9990645059. These Rs. 260 Kailash was weighed with a digital scale, the total weight of ganja along with the white plastic bag was found to be 3 kg 958 grams. The passed narcotic substance ganja was put in the cloth parcel and I stamped it with three seals of my SK on the cloth

parcel and the sample seal was stamped with one seal of SK and after the seal was handed over to constable Ravi Shankar 4053/GGM and gazetted officer Shri Jatin Dalal ETO/DETC (ST) GURUGRAM (NORTH) also put one seal of his DS on the cloth parcel ganja and sample seal and took the seal with himself. The cloth parcel narcotic substance ganja had three seals of SK, one seal of DS and one seal of SK on the sample seal and one seal of DS were taken as reason proof by Bajariya Fard List Pvt. Ltd. The witnesses signed the list receipt prepared in this regard and the accused Kailu Mahto alias Kailash signed the list receipt. The gazetted officer above verified the list receipt and the notice under section 50 NDPS Act. The videography of the action taken on the spot was uploaded on E SAKSHYA from my phone by constable Anil 5371/GGM. O Kailu Mahto alias Kailash has committed the crime under section 20(b)(ii) (b) of NDPS Act by keeping in his possession the narcotic substance ganja in a white plastic bag weighing 3 KG 958 GRAM. Constable Ravishankar 4055 GGM is being sent to the police station to register the case by writing the article. After this, the registered charge number should be informed or another investigator should be sent to the spot. Afsaran Bala should be informed by sending copies of Bajaria Special Report. I ASI anc fellow employee gazetted officer and accused Kailu Mahato alias Kailash an present at the spot along with above and case property. Location Nea Radhakrishna Enclave Wazirabad LONGITUDES 28.4317832 LATTITUDE 77.081373 ASI Praveen 556 GGM ANC Sikandarpur GGM Mob m 9416808837 Date 13.05.2025 AT 01.30 AM Place On receipt of the abo article at the police station by constable Ravi Shankar 4055/GGM. Accordi and the mobile phone were said to be personal by Kailu Mahato alias Kailash. These were put in a separate cloth planda and were stamped with three seals of SK, a list of which was prepared during body search. When Kailu Mahato alias Kailash was asked to produce licence or permit for having the narcotic substance ganja in a white plastic bag, Kailu Mahato alias Kailash could not produce any licence on permit. When the narcotic substance ganja recovered from accused Kailu alias to FIR No. 75 dated

13.05.2025 Crime Section 20(b)(ii)(b) NDPS ACT Police Station Sector 33 Guruyam, the FIR was recorded in the computer and computer copies were prepared and a special report of the case is being prepared and sent to the higher authorities through email. Manager sahab was informed about the case. Police file and original article and copy of First Information Report were given to constable Ravi Shankar 4055/GGM and he was sent to the spot and 10 SI Surender 230/GGM ANC Sikanderpur Guruyam was informed to reach the spot for further investigation. This case is being registered in the presence of LASI RENU 814/GGM. ”

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the FIR. Learned counsel has further iterated that the prosecution version, as set out in the challan, suffers from inherent defects and the provisions of the NDPS Act has not been complied with. Learned counsel further submits that the petitioner is a man of 51 years of age and is the sole bread-earner of his family. Learned counsel submits that the petitioner has no criminal antecedents. Thus, regular bail is prayed for.

4. Counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

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

6. The petitioner was arrested on 14.05.2025 and is in custody since then. Till now, 12 prosecution witnesses have been examined but none have been cross-examined. The rival contentions of the parties give rise to debatable issues which shall essentially be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep

into these rival contentions, at this stage, lest it may prejudice the investigation/trial. Nothing tangible has been brought forward to indicate the likelihood of the appellant absconding from the process of justice or interfering with the remaining prosecution evidence.

As per the custody certificate dated 16.07.2025 filed by the learned State counsel, the petitioner has suffered incarceration of 2 months and 03 days. Further, as per the said custody certificate the petitioner is stated not to be involved in any other case.

Suffice to say, the further detention of the petitioner in custody is not required in the facts and circumstances of the case.

7. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqia Magistrate.

(vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

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

(SUMEET GOEL)
JUDGE

July 17, 2025
sailesh

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