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

**CRM-M No.40303 of 2025
Date of Decision: 22.09.2025
Reserved on: 16.09.2025**

Jarnail Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. M.S. Basra, Advocate,
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J.

1. The instant one is the second petition filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") seeking regular bail in case arising out of FIR No.54 dated 12.08.2024 registered under Sections 22 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station Cheema, District Sangrur. The first petition filed by the petitioner bearing CRM-M No.58360 of 2024 had been dismissed as withdrawn vide order dated 18.03.2025.

2. As per the allegations, on 12.08.2024, a police party was on patrolling duty when the accused Dev Raj was found present in the area of Village Bhangu Patti Darwaja. On seeing the police party, he threw the

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polythene bag which he was carrying in his hand. On suspicion, he was apprehended. On opening the bag, 1000 tablets of Tramadol Hcl Prolonged Release Tablets IP Clevidol-100 were recovered. Their batch number had been erased. The same were taken into custody by the police. The accused Dev Raj was formally arrested. He was interrogated and suffered disclosure statement on the basis of which the petitioner was nominated as an accused. He was arrested on 20.09.2024. One cell phone was recovered from him. Investigation now stands completed.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated on the basis of disclosure statement of the co-accused which cannot be considered to be admissible in evidence. He was not named in the FIR. No recovery has been effected from him. He is in custody since long. He is on bail in some of the cases registered against him. The trial will take considerable time to conclude. No useful purpose would be served by keeping him in custody any more. It is, therefore, urged that he deserves to be released on bail.

4. Status report has been filed. Learned Assistant Advocate General, Punjab has argued that as per the disclosure made by the co-accused Dev Raj, the petitioner used to supply intoxicant tablets to him. They used to converse with each other through Whatsapp. The call detail record has been collected which verifies this fact. The co-accused Arun Kumar was also involved in the same business. The details of the call record between both of them have also been collected. The allegations against him are serious in nature. He played specific role of supplying intoxicant tablets

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to co-accused Dev Raj. He is involved in six other cases two of which are under the provisions of NDPS Act. There are chances of his absconding or committing similar offences, if extended benefit of bail. Rigors of Section 37 of NDPS Act are attracted as recovery is of commercial quantity of contraband. It is, therefore, urged that he does not deserve to be released on bail.

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 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.

7. The case of the prosecution is that the name of the petitioner was disclosed by the co-accused Dev Raj, 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

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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 investigating agency has collected call detail records of the phone of the petitioner and the co-accused to show that there was exchange of calls between them for the purpose of sending samples of tablets and supplying of the same. Without the transcript of the conversation exchanged between the co-accused and the petitioner, it is a question of debate as to whether, the mere call details can be considered to be corroborative material against him. The petitioner is in custody since 20.09.2024. Challan has been presented. The trial will take time. 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

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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.

22.09.2025
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No