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CRM-M-40723-2025 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40723-2025 (O&M)

Date of decision: August 05, 2025

Avinash Kumar @ Guddu

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Mohit Vashishat, Advocate for the petitioner.

Mr. Baljinder Singh Sra, Additional AG Punjab.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No.23 dated 14.05.2025, registered for the offences punishable under Sections 21/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Division No.1, Ludhiana.

2. The gravamen of the FIR in question is that the petitioner is an accused of being involved in an FIR pertaining to NDPS Act involving 10 grams of Heroin.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 14.05.2025. Learned counsel has argued that the petitioner has been falsely implicated into the FIR in question on account of his rivalry with the police officers. Learned counsel has further iterated that the mandatory provisions of the NDPS Act have not scrupulously been complied with, and

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thus, the prosecution case suffers from inherent defects. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, thus, he does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 04.08.2025 in the Court today, which is taken on record.

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

6. The petitioner was arrested on 14.05.2025 whereinafter investigation was carried out and challan was presented on 09.07.2025. Total 8 prosecution witnesses have been cited, but none has been examined till date. The contraband alleged to have been recovered from the petitioner is, indubitably, non-commercial in nature and hence, rigors of Section 37 of the NDPS Act would not apply in this case. The rival contentions raised at Bar give rise to debatable issues shall 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 trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1. As per custody certificate dated 04.08.2025 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of 02 months and 19 days. Further, as per the said custody certificate the petitioner is stated to be involved in 01 more case under NDPS Act. However,

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this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586***, a Division Bench judgment of the Hon'ble Calcutta High Court in case of ***Sridhar Das v. State, 1998 (2) RCR (Criminal) 477*** & judgments of this Court in CRM-M No.38822-2022 titled as ***Akhilesh Singh v. State of Haryana***, decided on 29.11.2021, and ***Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191***.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned trial Court/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 cellphone 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/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

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(viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after his being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned trial Court/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

August 05, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No