

2025:PHHC:161825



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

224

**CRM-M-41310-2025 (O&M)
Date of decision : 20.11.2025**

Vijay Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in FIR No. 14 dated 02.03.2025, registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) and Section 111 of BNS, 2023 at Police Station Kheri Gandian, District Patiala.

2. Brief facts of the case relevant for the disposal of the present petition are that on 02.03.2025, co-accused Barru Singh was apprehended by a police party and recovery of 1080 intoxicant tablets of Lomotil was effected from him. Since he could not produce any valid license or permit to keep in his possession the recovered drugs, he was formally arrested at the spot. During interrogation, he disclosed that the recovered contraband was purchased by him from the present petitioner, who was indulged in selling drugs. On the basis of the same, the petitioner was nominated in this case as an accused and was

2025:PHHC:161825



arrested on 07.03.2025. His dope test was conducted, which came positive. After completion of necessary investigation and usual formalities, challa under Section 193 of BNSS was present in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid mentioned offences.

3. It is argued by learned counsel for the petitioner that he was neither found at the spot nor was named in the FIR. He has been nominated in this case on the basis of the disclosure statement suffered by the co-accused, which cannot be considered to be admissible in evidence. No subsequent recovery has been effected from him. There is nothing on record to show that the petitioner was involved in the subject crime in any manner with the co-accused. Even otherwise, investigation has since been completed and challan has been filed. Conclusion of trial is likely to take considerable time. Although he is involved in some other cases but he is on bail in those cases. The petitioner is in custody since long. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be released on regular bail.

4. Status report has been filed by the respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations levelled against the petitioner as well as his criminal antecedents, he is not entitled to get benefit of bail as Section 37 of the NDPS Act would be attracted in this case. It is, thus, argued that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

6. The well settled proposition of law is that the Court while

2025:PHHC:161825



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 above named co-accused, from whom recovery of commercial quantity of the contraband was 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 petitioner was arrested on 07.03.2025. There is nothing on record, at this stage, to connect the petitioner either with the subject crime or to show that he was connected with the co-accused in any manner at the relevant time. Investigation has been completed and challan has

2025:PHHC:161825



been filed. Conclusion of trial would take considerable time. Pendency of other cases against the petitioner cannot be considered to be a ground for denying him benefit of bail in given circumstances. Keeping in view the aforesaid facts and circumstances, this Court is of the considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

20.11.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No