



1. Petitioner has filed 2nd petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail in FIR No.216, dated 09.05.2023, under Sections 21-C and 29 of NDPS Act and Section 201 of IPC (added later), registered at Police Station Sadar, District Yamuna Nagar.
2. Learned counsel for the petitioner contended that petitioner has been falsely implicated in this case. It is contended that the petitioner was not apprehended along with co-accused Kayum, from whom recovery of 311 grams of Heroin was allegedly effected pursuant to a secret information received by the police. His name was surfaced subsequently, in a disclosure statement allegedly suffered by co-accused Kayum, who claimed that the petitioner was supplier of the recovered contraband. Learned counsel has further submitted that since investigation qua the petitioner is complete, further incarceration of the petitioner would serve no useful purpose as out of 24 prosecution witnesses, only 04 witnesses have been examined, coupled with the fact that when the petitioner was arrested on 15.06.2024, no



recovery of any contraband was effected from him and since then he is behind the bar. Thus, he prayed for grant of regular bail to the petitioner. In support of his arguments, he placed reliance on the case law **“Harjinder Singh @ Blta Vs. State of Punjab”** CRM-M-23256 of 2025 decided on 05.08.2025 relevant whereof reads as under:-

“7. As per custody certificate dated 04.08.2025 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of 05 months and 30 days. Further, as per the said custody certificate the petitioner is stated to be involved in 02 more cases; and apart therefrom, the petitioner has been convicted in 01 another case. However, 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.”

3. On the other hand, learned State counsel submitted that the premises of accused Maina wife of Kayum was raided and 311.07 gram of heroin was found. During investigation, accused Kayum was arrested on 05.06.2023. Thereafter, on the basis of confessional statement of accused Kayum, present accused Sabir @ Kala was arrested. Present accused was apprehended invoking the provisions of Section 29 of NDPS Act. However, it has been asserted by the learned State counsel that disclosure statement of co-accused Kayum was made soon after his arrest on 05.06.2023 and the petitioner had been on the run ever since then; a prize money had also been put qua the petitioner. Learned State counsel has, on further instructions, submitted that the involvement of the petitioner in drug trafficking is discernible from the fact that he has previous criminal antecedents and is involved in two other cases under the NDPS Act. Learned State counsel,

therefore submitted that in case the petitioner is enlarged on bail, there is a reasonable apprehension that the petitioner would again evade proceedings before the trial Court and will involve in some other case under the NDPS Act as it has come forth during investigation that he is a supplier of narcotic substances.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. The FIR in question came to be registered on 09.05.2023: after the petitioner's name surfaced in the disclosure statement of the co-accused Kayum, he has been on the run and petitioner also evaded proceedings before the trial Court. It is rightly recorded by the trial Court that when an accused is alleged to be involved in a narcotic network, the bar under Section 37 of the NDPS Act assumes heightened significance indicating a deeper and more structured participation in the commission of the offence, thereby raising serious concerns about the potential reoffending, tampering with evidence, or influencing witnesses if released on bail. Merely the fact that the period of custody has been increased does not entitle the accused to the concession of bail.

6. The Apex Court, in “***Narcotics Control Bureau Vs. Mohit Aggarwal***” ***CRA-1001-1002 of 2022***, held that “under Section 37 of NDPS Act, bail cannot be granted merely on the ground that nothing was found from the possession of accused. The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief of regular bail to the respondent.”

7. It has also come on record that two more criminal cases are registered against the petitioner regarding drug trafficking. Therefore,



considering the gravity of the offence, no ground is made out to grant the concession of regular bail.

- 8. Petition is accordingly dismissed.
- 9. Observation made herein above, shall have no bearing on the merits of the case as the same is made only for the purpose of deciding the present petition.

(SUBHAS MEHLA)
JUDGE

02.09.2025
Monika

- 1. Whether speaking/ reasoned : Yes /No
- 2. Whether reportable : Yes /No