

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

228

CRM-M-43385-2025

Date of decision: 1st December, 2025

Somnath Pathak

...Petitioner

Versus

State of Haryana

...Respondent

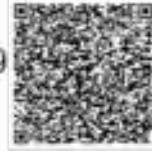
CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Manvinder Singh Dalal, Advocate for the petitioner.

Ms. Himani Arora, Deputy Advocate General, Haryana.

MANISHA BATRA, J (ORAL):-

The instant petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case arising out of FIR No.75, dated 05.04.2025 registered under Sections 15, 27-A and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS') registered at Police Station City Pehowa, District Kurukshetra, Haryana on the allegations that on 05.04.2025, the accused-Rakesh Kumar was apprehended alongwith a truck bearing registration No.PB13AR-8534 and 197 Kgs 400 Grams of poppy straw was recovered from his conscious possession. He was formally arrested. On interrogation, he suffered disclosure statement and named Jagdev Singh as co-accused, who was arrested on 06.04.2025 Jagdev Singh suffered disclosure statement to the effect that he had purchased the contraband from the present petitioner from Jharkhand and Bihar and had to



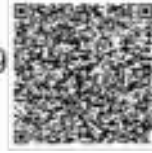
supply the same to the co-accused Prem Chand. The petitioner was nominated as an accused. He was arrested on 11.04.2025. Investigation now stands completed and he is facing trial along with the other co-accused.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case, on the basis of disclosure statement of co-accused, which cannot be considered to be admissible in evidence. No recovery has been effected from him. His involvement in another case cannot be considered to be a reason for denying benefit of bail to him. No useful purpose would be served by detaining him in custody anymore. It is, therefore, argued that he deserves to be released on bail.

4. *Per contra*, learned State Counsel has argued that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be released on bail. Therefore, it is urged that the petition does not deserve to be allowed.

5. This Court has heard rival submissions made by both the parties.

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 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 co-accused Jagdev Singh, from whom recovery of commercial quantity of poppy husk has been effected. As per his disclosure statement, the said contraband had been brought by him from Jharkand and Bihar on the asking of the petitioner and was to be supplied to him. 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. In view of the above discussion, this Court is of the opinion that the bar under Section 37 of the NDPS Act does not come in the way of granting bail to the petitioner. The petitioner is in custody since 11.04.2025. Challan has been presented and charges have been framed and out of 17 prosecution witnesses, no prosecution witness has been examined so far. In such circumstances, the trial is likely to take long time to conclude. The object of jail is to secure the appearance of the accused during the trial and it can neither be punitive nor be preventive. The deprivation of liberty has been considered as a punishment. As such, Court is of the considered opinion that



a case for release of the petitioner on bail 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 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-State 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.

10. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

1st December, 2025
Parveen Sharma

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