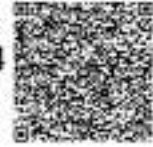


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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

228

CRM-M-44989-2025

Date of decision: 11th December, 2025

Sarabjit Singh @ Saba @ Sarabjeet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Jashanpreet, Advocate for the petitioner.

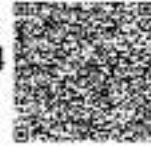
Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 47 dated 17.04.2024 registered under Sections 21 and 27 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') (Section 29 of NDPS Act and Section 201 of IPC added later on) at Police Station Sujampur, District Pathankot, Punjab.

2. As per the allegations, on 17.04.2024, while performing patrolling duty, one Innova vehicle was stopped by them, one of the occupants threw out a polythene envelop from the vehicle. Both the occupants were

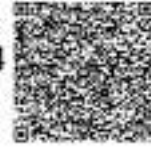
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apprehended. On conducting search, it was found that the envelop was containing Rs.5,00,000/-. That apart 15 grams of contraband heroin kept separately in polythene envelop was also recovered from their conscious possession. The recovered notes and contraband were taken into possession. They were formally arrested. They suffered disclosure statements on the basis of which, the accused Harpal Singh @ Bittu and Jaspreet Singh were nominated as accused. Both of them subsequently suffered disclosure statements and in the third disclosure statements of the co-accused Gurjant Singh @ Ravi and Simranjeet Singh @ Nikka Bath, the present petitioner was nominated as an additional accused on the allegations that the money for purchase of the contraband as well as recovered from them was arranged by present petitioner who was at that time was lodged in Sangrur Jail. As per the allegations, he was running a drug racket from there. The petitioner was joined into investigation by securing his presence through production warrants and was formally arrested in this case on 17.04.2024. He also suffered disclosure statement admitting his involvement in the crime and nominating some other accused. Investigation now stands completed.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of third disclosure statement of the co-accused Gurjant Singh @ Ravi and Simranjeet Singh @ Nikka Bath, which cannot be considered to be admissible in evidence. He was confined in Sangrur Jail at that time and therefore, there was no question for his providing money to the co-accused. No contraband and money have been recovered at

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his instance. He is in custody since long. Trial will take considerable time to conclude. His continued detention would not serve any useful purpose. The rigors of Section 37 of NDPS Act are not attracted qua him. With these broad submissions, it is urged that the petition deserves to be allowed.

4. Status report and custody certificate have been filed by respondent-State. It is argued by learned State counsel that there are serious allegations against the petitioner, who was involved in transportation and smuggling of contraband from Sri Nagar to Punjab and was running a racket with the help of it. Even when he was confined in jail, he was managing transportation/ trade of heroin. He is a habitual offender since several other cases have been registered against him. There are chances of his absconding or committing similar offences if extended benefit of bail. Therefore, it is stressed that the petition does not deserve to be allowed.

5. This Court has heard learned counsel for the parties at considerable length.

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

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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 Gurjant Singh @ Ravi and Simranjeet Singh @ Nikka Bath, from whom recovery of heroin has been effected. 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 17.04.2024. Challan has been presented but even charges have not been framed. 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 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

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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 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

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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

11th December, 2025
Parveen Sharma

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