

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:150223



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CRM-M-44880-2025 (O&M)
Date of decision:31.10.2025

Ajay

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Jatin Verma, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

...

Manisha Batra, J. (Oral).

1. 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.231 dated 03.08.2024 registered under Sections 20B(ii)C and 29 of the NDPS Act, at Police Station Sadar Narwana, District Jind.

2. As per the allegations, on 03.08.2024, on the basis of a secret information, accused Sukhdev Singh was apprehended and 1.018 of *charas* was recovered from a polythene bag of his conscious possession. He was formally arrested and interrogated. He suffered disclosure statement to the effect that he had brought the contraband from the present petitioner by transferring a sum of Rs.20,000/- from his cell phone through google pay. The petitioner was nominated as an accused and was arrested on 29.04.2025. On interrogation, he suffered disclosure statement admitting his involvement

in the crime. He too suffered disclosure statement on the basis of which accused Sukhdev Singh was nominated since he was in custody in some other case, his presence was secured through production warrants and he admitted about selling charas to the present petitioner. The additional accused Jaswant, Pawan @ Samundar and Parveen Kumar were also arrested. 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 disclosure statement of co-accused Sukhdev Singh which cannot be considered to be admissible in evidence. No recovery is to be effected from him. He is in custody since 29.04.2025. Trial will take considerable time to conclude. He has been already acquitted in a case under the provisions of NDPS Act, which had been registered against him. His involvement in other cases cannot be considered to be a reason for denying benefit of bail. There are no chances of his intimidating the witnesses as all the witnesses are police officials. Rigors of Section 37 of the NDPS Act are not attracted against him. The trial will take considerable time to conclude as none out of 29 prosecution witnesses has been examined so far. His further detention would not serve any useful purpose. It is, therefore, urged that he deserves to be extended the benefit of bail.

4. Status report has been filed. 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 extended the benefit of bail.

5. I have heard rival submissions made by learned counsel for the parties.

6. It is 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.

7. The case of the prosecution is that the name of the petitioner was disclosed by co-accused from whom recovery of contraband has been 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. The veracity of the disclosure statement against the petitioner will be tested during the course of trial. No recovery has been 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 has been in custody since 29.04.2025. Challan has been presented and charges have also 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 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 and shall not influence the outcome of the trial.
10. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

31.10.2025

harjeet

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No