

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:149628



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CRM-M-48387-2024 (O&M)

Date of decision:31.10.2025

Jarnail Singh @ Jaila

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ruhani Chadha, Advocate for the petitioner.

Ms. Ramta Chowdhary, DAG, Punjab.

...

Manisha Batra, J. (Oral).

1. The present petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking grant of regular bail in case bearing FIR No.15, dated 20.01.2024, registered under Sections 21(c), 23, 27(A), 29 of the NDPS Act (offences under Sections 212, 216 IPC were added later on), at Police Station Gate Hakima, District Police Commissionerate, Amritsar.

2. The aforementioned FIR was registered on the allegations that on 20.01.2024, a secret information was received to the effect that accused Harmandeep Singh @ Harman, Manjit Singh @ Manna and Lovejit Singh @ Labba had formed a gang with smugglers of Pakistan and used to receive contraband from the cross border via drones and were indulged in supplying the same in different parts of Amritsar and its surrounding areas. It was also informed that at that point of time, accused Harmandeep Singh @ Harman was

present in his car on the way from Chabhal Road to Khajana Gate, Amritsar and was waiting to supply contraband to some customer and that he could be apprehended. Believing the secret information to be true, a raiding party was formed, which reached at the informed place and found Harmandeep Singh @ Harman to be sitting in an i20 car bearing registration No.PB-46-AH-5494. After completion of due formalities, search was conducted and one polythene bag was recovered from conscious possession of the petitioner. It was found to be containing heroin, which weighed to be 2 kgs. That apart, drug money of Rs.1.25 lakhs was also recovered. The same was taken into custody. Accused Harmandeep Singh @ Harman was formally arrested.

3. As per the further allegations, on interrogation, accused Harmandeep Singh @ Harman suffered disclosure statement on the basis of which accused Manpreet Singh @ Manna, Lovepreet Singh @ Love and Manjit Singh were nominated as accused. Accused Manjit Singh and Lovepreet Singh were arrested on 24.01.2024. In pursuance of his disclosure statement, both of them got recovered 1 kg of heroin and drug money to the tune of Rs.4 lakhs. Kans Kaur was also nominated as an additional accused. She was arrested on 28.01.2024. She too suffered disclosure statement to the effect that she used to provide harbour to the accused Manjit Singh and Lovepreet Singh in order to save them from the police and also used to further supply the drug money. In pursuance of disclosure statement of accused Manjit Singh, accused Dhanmeet Singh @ Sunny, Amolak Singh and Goldy were nominated as additional accused. Manjit Singh suffered another disclosure statement on 30.01.2024 to the effect that he had come into contact with one Surinder Singh @ Shinda @ Raja for going abroad and had been asked to hand over cash amount of Rs.25 lakhs to the present petitioner and assured to make arrangement for sending

him abroad. He disclosed that he had handed over the aforementioned amount of money to the petitioner. The accused Lovepreet Singh also suffered a disclosure statement on the basis of which, Kuljit Singh @ Rinki, Jarman Singh, Surinder Singh @ Shinda and Harman Singh were nominated as accused. The petitioner was arrested on 29.07.2024. He too suffered disclosure statement admitting that the accused Surinder Singh, who was his nephew had informed him that accused Manjit Singh would give a sum of Rs.25 lakhs for preparing fake passport and he would send the accused Manjit Singh abroad. Further that accused Manjit Singh had handed over fake passport of himself, his wife and child. Investigation now stands completed and challan/supplementary challan have been presented before the trial Court.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of the disclosure statement of the co-accused, which cannot be considered to be admissible in evidence. No recovery has been effected from him. There are no allegations that he was involved in the business of sale/supply of contraband in any manner whatsoever. No contraband or drug money has been recovered from him. No money had been paid to him by any co-accused nor the same had been recovered. Co-accused, Kans Kaur, Jarmanjit Singh, Manpreet Singh and Manjit Singh have been extended benefit of bail. On parity, he too deserves to be given the same benefit. The trial will take considerable time to conclude. It is, therefore, urged that the petition deserves to be allowed.

5. Per contra, learned State counsel while referring to the contents of the reply has argued that there are serious allegations against the petitioner, who had close links with the co-accused and who along with them was involved in smuggling/peddling of heroin and managing drug money through

hawala and also sending the drug peddlers abroad on fake passports. He conspired with his nephew Surinder Singh @ Shinda to facilitate the co-accused Lovejeet Singh and Manjit Singh to escape abroad. Huge quantity of contraband and drug money has been recovered from the co-accused. Rigors of Section 37 of the NDPS are attracted in this case. It is, therefore, urged that the petitioner does not deserve to be extended benefit of bail.

6. This Court has heard the rival submissions made by learned counsel for the parties at a considerable length.

7. The petitioner along with the co-accused is alleged to be involved in facilitating the other drug peddlers/co-accused involved in drug peddling for sending them abroad through *hawala* transactions on the basis of fake passports. No contraband had been recovered from him. As per the allegations, co-accused had to give a sum of Rs.25 lakhs to him but it is not the allegation that the same had been given to him. Neither any such amount of money had been recovered. The co-accused have been extended benefit of bail. The petitioner is stated to be involved in one more case under the provisions of NDPS Act but is stated to be on bail in that case.

8. 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.

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 contraband 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 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 Act does not come in the way of granting bail to the petitioner. The petitioner is in custody since 29.07.2024. Challan has been presented. 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 switched 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.

31.10.2025

harjeet

**(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No