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2025:PHHC:128759



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

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Date of decision: September 17, 2025

Deepak Kumar alias Kalu

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Ritesh Pandey, Advocate for the petitioner.

Mr. Baljinder Singh Sra, Additional AG Punjab.

***********SUMEET GOEL, J. (ORAL)**

Present 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 bearing FIR No.95 dated 03.06.2025, registered for the offences punishable under Sections 22, 27(a), 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Section 111 of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS'), at Police Station Shri Hargobindpur, Batala District Batala.

2. The gravamen of the allegation against the petitioner is that the petitioner is an accused of being involved in an FIR pertaining to NDPS Act involving 110 loose intoxicant tablets along with Rs.3,200/- drug money allegedly recovered from the petitioner.

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3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 03.06.2025. Learned counsel has argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further iterated that the mandatory provisions of the NDPS Act have not scrupulously been complied with, and thus, the prosecution case suffers from inherent defects. Learned counsel has argued that, as per the prosecution version, 110 loose intoxicant tablets have been recovered from the petitioner, but the Forensic Science Laboratory (FSL) report has not been received so far. In this regard, learned counsel has placed reliance upon a dicta of a judgment of a Division Bench of this Court passed in *Inderjeet Singh @ Laddi and others versus State of Punjab, 2014 (3) RCR (Criminal) 953*, wherein, it has been held as under:

“5. The learned Single Judge after considering the rival contentions found that the question whether such substances/drugs are covered under the NDPS Act or not, or can be dealt with only under the D&C Act has been arising frequently in many cases. The consequences would be completely different if the substances were held to be within the purview of the D&C Act instead of the NDPS Act. The matter was, therefore, referred to a larger bench. Meanwhile, the petitioner was ordered to be released on interim bail to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate, Ludhiana.

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*53. Indeed the delay in testing the sample does result in prejudice to an alleged offender as till the results are available there can be no definite certainty with regard to the contraband in respect of which there has been a contravention or that has been recovered. In such cases to await the outcome of the final FSL report where there is likely to be delayed, the accused may be released on interim bail. In **Sukhwant Singh v. State of Punjab, 2009(4) RCR (Criminal) 868 : (2009) 7 SCC 539**, it has been held by the Hon'ble Supreme Court as follows:*

*..... following the decision of this Court in **Kamlendra Pratap Singh v. State of U.P., 2009(3) RCR (Criminal) 401 : 2009(4) Recent Apex Judgments (R.A.J.) 151 : (2009) 4 SCC 437** we reiterate that a court hearing a regular bail application has got inherent power to grant interim bail pending final disposal of the bail application. In our opinion, this is the proper view in view of*

*Article 21 of the Constitution of India which protects the life and liberty of every person. When a person applies for regular bail then the court concerned ordinarily lists that application after a few days so that it can look into the case diary which has to be obtained from the police authorities and in the meantime the applicant has to go to jail. Even if the applicant is released on bail thereafter, his reputation may be tarnished irreparably in society. The reputation of a person is his valuable asset, and is a facet of his right under Article 21 of the Constitution vide **Deepak Bajaj v. State of Maharashtra, 2008(4) RCR (Criminal) 961 : 2008(6) Recent Apex Judgments (R.A.J.) 357 : (2008) 16 SCC 14**. Hence, we are of the opinion that in the power to grant bail there is inherent power in the court concerned to grant interim bail to a person pending final disposal of the bail application. Of course, it is in the discretion of the court concerned to grant interim bail or not but the power is certainly there.*

54. Therefore, the presiding officer of a Special Court dealing with NDPS cases wherever the need is felt and where the matter is being unnecessarily delayed may grant interim bail till the receipt of the FSL report and thereafter considered the case after the receipt of the report.”

3.1. Learned counsel has further iterated that the petitioner has suffered incarceration for more than 03 months. Thus, regular bail is prayed for.

4. Learned State counsel seeks to place on record custody certificate dated 16.09.2025 as also short reply by way of an affidavit dated 16.09.2025 of Harish Behal, PPS, Deputy Superintendent of Police, NDPS Batala, Police District Batala with additional charge of Sub Division Sri Hargobindpur, Police District Batala, in the Court today, which are taken on record. Raising submission in tandem with the said short reply, learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, thus, he does not deserve the concession of the regular bail.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. The petitioner was arrested on 03.06.2025 and is in continuous custody since then. It is thus, indubitable, that the conclusion of the investigation as also trial emanating therefrom is likely to take time. It is not in dispute that the requisite FSL report has not yet been received. In the totality of the factual milieu of the case, especially keeping in view the factum of the FSL report having not been received yet, this Court deems it appropriate to grant concession of on regular bail to the petitioner.

7. In view of above, the present petition is allowed. The petitioner is ordered to be released on regular bail till the presentation of the FSL report before the concerned Court, on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned trial Court/Duty Magistrate, the petitioner shall remain bound by the following conditions:

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.
- (viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any

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offence after his being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned trial Court/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Needless to say that the petitioner shall be at liberty to apply for grant of regular bail afresh before the concerned Court after presentation of the FSL report.

11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

September 17, 2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No