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**(236) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision : 10.12.2025

HARJEET KUMAR @ JEETA

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Manjinder Singh Saini, Advocate for the petitioner

Mr. Roshandeep Singh, AAG, Punjab

MANISHA BATRA, J.

1. The instant petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking grant of regular bail in case arising out of FIR No.26, dated 11.03.2024, under Sections 21, 21(C) and Section 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS') and Section 25 of the Arms Act, 1956 registered at Police Station Jalandhar Cantt, District Jalandhar.

2. The aforementioned FIR was registered on the allegations that on 11.03.2024, the accused Akash Gupta was apprehended and 100 grams of heroin was recovered from his conscious possession which was taken into custody. He was formally arrested. On interrogation, he suffered disclosure statement to the effect that the recovered contraband

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was supplied to him by the accused-Bunty. He was nominated as co-accused as such offences under Section 29 of the NDPS Act was added. He was arrested on 13.03.2024 and on his disclosure the accused-Samanpreet Singh and Karimi were nominated as additional accused.

3. As per further allegations, the accused-Akash Gupta suffered a 5th disclosure statement on 18.03.2024 and 20.03.2024, in pursuance of which he got recovered a pistol of .32 bore alongwith 04 live cartridges and also disclosed the fact that the present petitioner and one Rahul were involved in illicit trade of drugs alongwith the co-accused Bunty and Sarwan Sethi. Accused-Rahul and Sarwan were nominated as such. The petitioner was arrested on 01.05.2025 and co-accused were also arrested. Investigation now stands completed.

4. 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. The co-accused-Samanpreet Singh has been extended benefit of pre-arrest bail on parity. The petitioner deserves to be given the same benefit. He has clean antecedents. No purpose would be served by his further incarceration. The trial will take considerable time to conclude, since only one out of 22 prosecution witnesses were examined.

5. Per contra, learned State counsel has argued that there are serious allegations against the petitioner, who alongwith the co-accused was an active member of drug trade controlled by group of persons. Commercial quantity of contraband and illicit arms have been recovered

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from the members of the cartel engaged in the supply of contraband with the petitioner. There was exchange of calls between the petitioner and co-accused Bunty, during the relevant time, which shows the complicity of the petitioner in the crime. There are chances of petitioner's absconding, if extended, benefit of bail. The rigors of Section 37 of NDPS Act are attracted in this case. It is, therefore, argued that he does not deserve to be extended benefit of bail.

6. This Court has heard rival submissions made by learned counsel for both the parties.

7. 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.



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7. The case of the prosecution is that the name of the petitioner was disclosed by the accused-Akash Gupta, who named the petitioner in his 5th disclosure statement and as per his disclosure statement the present petitioner and one Rahul were involved in illicit trade of drugs.. 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. The case of the prosecution is that several calls have been exchanged between the petitioner and the co-accused Bunty, however, there is no transcript of those call records to show that the petitioner was actively involved in the commission of subject offences with the co-accused. It is well established that mere call details, without the transcript of the conversations exchanged between the accused persons, would not be considered to be corroborative material in absence of substantive material found against them. 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 01.05.2025. Challan has been presented and only 01 prosecution witnesses has been examined, out of 22 prosecution witnesses. 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

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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 to seek redressal by filing an application seeking cancellation of bail.



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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**

10.12.2025	Whether speaking/reasoned:-	Yes/No
Amit Sharma	Whether reportable:-	Yes/No