IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-46887-2025(O&M)
Decided on :01.09.2025

Rahul . . . Petitioner(s)

Versus

State of Haryana . . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Ravi Kumar Girdhwal, Advocate
for the applicant-petitioner

Mr. P.K. Jhanda, Sr. DAG, Punjab.

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SANJAY VASHISTH, J. (Oral)

CRM-34760-2025

i) Present application has been filed under Section 528 of BNSS, for placing on record amended petition.

ii) Notice of the application.

iii) Mr. P.K. Jhanda, Sr. DAG, Haryana, appears on behalf of respondent-State.

iv) For the reasons enumerated in the application, same is allowed and amended petition is taken on record.

CRM-M-46887-2025

1. Present petition has been filed under Section 483 of BNSS, seeking regular bail in case FIR No. 180 dated 14.06.2024, under Sections 20 (b)(ii)(c), 29 of NDPS Act, registered at Police Station Sector-65, District Gurugram, Haryana.

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2. As per the NDPS Act, quantity exceeding 20 kilograms of ganja qualifies as commercial quantity. Learned counsel for the petitioner contends that 20.38 kilograms of ganja were recovered from the car in which the petitioner was occupying the rear seat, which exceeds the maximum limit for non-commercial quantity. It is further submitted that, at the time of trial, method adopted by the investigating officer for weighing the contraband will be thoroughly examined to determine, whether it was conducted in accordance with prescribed norms or not. Any discrepancy in the weighing process may affect the outcome of the trial, especially while considering the sentence period, if accused are found guilty.

Counsel further submits that co-accused, namely Sanjay Pandit, who was allegedly driving the vehicle, fled from the spot upon seeing the police party. Petitioner disclosed his name when apprehended from the spot.

It is argued that mere presence in the vehicle cannot be construed as conscious possession of the contraband lying therein. It is prosecution's burden to prove beyond doubt that the petitioner had knowledge of and conscious possession of the contraband. In the absence of such proof, no offence would be made out against the petitioner.

Counsel also submits that the petitioner is in custody since 14.06.2024, i.e., for over one year and two months, and till date, no prosecution witness has been examined. Therefore, it is submitted that

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trial is likely to take an extended period to conclude, and hence, prays for the grant of regular bail.

3. On the other hand, learned State counsel, while not disputing the fact that the petitioner is in custody since 14.06.2024, opposes the bail application. It is submitted that the quantity of ganja recovered is of a commercial nature, and thus the rigours of Section 37 of the NDPS Act would apply. Moreover, petitioner is involved in two other criminal cases, one of which pertains to the NDPS Act itself i.e. FIR No. 542/2021 under Section 20 of the NDPS Act, registered at Police Station Dhonoli Hapur, U.P. Petitioner's repeated involvement in such offences reflects a tendency to commit similar crimes, making him a potential threat to society if released on bail. It is further argued that granting bail at this stage may adversely affect the ongoing investigation and trial, especially considering the seriousness of the offence and its impact on public interest. Therefore, prays for dismissal of present petition.

However, learned counsel for the petitioner submits that in the said case, as pointed out by learned State counsel, the petitioner is currently on bail

4. Be that as it may, after hearing learned counsel for the parties and perusing the material on record, this Court is of the considered opinion that a case for grant of bail is made out. Petitioner is in custody since 14.06.2024, and as on date, not a single prosecution witness has been examined. Though the recovery of 20.38 kilograms of ganja falls within the ambit of commercial quantity, attracting the rigours

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of Section 37 of the NDPS Act, the Court cannot lose sight of the fact that the petitioner was merely occupying the rear seat of the vehicle at the time of alleged recovery. His role, nature of possession, and whether he had conscious knowledge of the contraband, are all matters that would require thorough adjudication during the course of trial. Additionally, continued incarceration without progress in the trial would result in undue hardship and may also hamper his prospects of rehabilitation in society.

5. Consequently, prayer made in the present petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

6. Any of the discussion done and recorded hereabove, shall not be construed as an expression of opinion on the facts of the case. Therefore, trial Court is expected to decide the case by taking an independent view, on the basis of evidence available on record, as expeditiously as possible in accordance with law.

7. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

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