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

CRM-M-46981-2025

Date of decision : 27.11.2025

AABID

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sarfraj Hussain, Advocate for the petitioner.

Ms. Himani Arora, DAG, Haryana

MANISHA BATRA, J.

1. The instant 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 arising out of FIR No.299, dated 15.08.2024 registered under Sections 22-C and 27-A of NDPS Act, 1985 registered at Police Station Sadar Nuh, District Nuh, Haryana on the allegations that on 15.08.2024, on the basis of a secret information, the accused-Mustafa was apprehended and a plastic bag containing 80 boxes of banned narcotic drugs was recovered from his conscious possession which was taken into possession by the Police. The accused-Mustafa was formally arrested. The inventory of the recovered drugs was total

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19,200 capsules Tramadol HCL salt having total quantity of 960 Grams were found to be recovered which were sent for FSL examination.

2. As per further allegations, during the course of investigation, accused-Mustafa suffered a disclosure statement admitting his involvement in the crime. On conducting call detail records of cellphone of accused-Mustafa, it was found that there was exchange of several calls between the petitioner and accused-Mustafa as on the relevant date. The petitioner was nominated as additional accused. He was arrested on 08.05.2025. On interrogation, he too suffered disclosure statement. It was disclosed by him that he had sold the contraband to the accused-Mustafa. 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. He is in custody since 09.05.2025. No recovery has been effected from him. The trial will take considerable time to conclude. He has clean antecedents. His continued detention would not serve any useful purpose. The rigors of Section 37 of NDPS Act have not been attracted against him. It is, therefore, argued that he deserves to be released on bail.

4. Status report has been filed. It is argued by learned State Counsel that the allegations against the petitioner are serious in nature as he was a supplier of the contraband to the co-accused. There are chances of his absconding or committing similar offences, if extended

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benefit of bail. It is, therefore, argued that he does not deserve to be released on bail.

5. This Court has heard rival submissions made by both the parties.

6. 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.

7. The case of the prosecution is that the name of the petitioner was disclosed by the co-accused Mustafa, from whom recovery of commercial quantity of intoxicating tablets i.e. tramadol 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. 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 the call detail records of the phone of the petitioner and the one used by the co-accused also show that there were regular phone calls between them. 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. The petitioner has clean antecedents. 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 09.05.2025. Challan has been presented and charges have been framed and out of 17 prosecution witnesses, only 01 witness has been examined so far. 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 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

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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.



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10. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

27.11.2025	Whether speaking/reasoned:-	Yes/No
Amit Sharma	Whether reportable:-	Yes/No