



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-48193 of 2025

Reserved On: 04.09.2025
Pronounced On: 8.09.2025

Phoolpati alias Parvati alias Parwati

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Raman Chawla, Advocate
for the petitioner(s).

Ms. Deepali Verma, Assistant Advocate General,
Haryana, for the respondent.

Surya Partap Singh, J.

1. This is first petition filed by the petitioner, under Section 482 of BNSS, for grant of regular bail. The petitioner, who is in custody with regard to commission of offence punishable under Sections 20(b)(iii)(C), 20(B)(ii)(C) of the NDPS Act (Section 27A of the NDPS Act and Section 201 IPC were added later on), Police Station City Hansi, Police District Hansi, District Hisar, is craving for the benefit of bail.

2. Briefly stating the facts emerging from record are that the above mentioned FIR came into being in view of contraband from the possession of Vishwas and Chattar Pal. According to prosecution, a tip-off was given by an informer to a police party headed by ASI Hemraj that the above named two persons, having a large quantity of ganja in their custody, were travelling on motorcycle. According to prosecution, acting on the above

mentioned tip-off when two persons riding on the above mentioned motorcycle were intercepted from a bag being carried by the above named two persons, 20 kgs 80 grams of ganja was recovered. It is the case of prosecution that in view of above mentioned recovery, the necessary formalities with regard to seizure and search of the persons of accused and their arrest were undertaken and the above mentioned FIR was lodged. According to prosecution, when the above named two persons were interrogated, they suffered their respective disclosure statements, wherein they nominated the accused Prem.

3. The prosecution has further alleged that in view of above mentioned information, when Prem was arrested, he suffered a disclosure statement nominating Surinder and later on, Surinder in his disclosure statement nominated the petitioner.

4. Heard.

5. It has been argued by learned counsel for the petitioner that the petitioner has already suffered a lot of incarceration for being in custody for a period of 4 months and 10 days, and that nothing is left to be recovered from the possession of accused/petitioner. According to learned counsel for the petitioner, the only evidence collected by the Investigating Agency, against the petitioner, is the confessional statement of her co-accused which is inadmissible in evidence. The learned counsel for the petitioner has further argued that nothing is left to be recovered from the possession of accused/petitioner and trial is not likely to be concluded in near future and therefore, the petitioner is entitled for the benefit of bail.

6. In addition to above, it has also been contended by learned

counsel for the petitioner that the other co-accused similarly placed, accused including the first degree and second degree nominated accused, namely Prem and Surinder have already been accorded the benefit of bail and therefore, the petitioner, too, should be accorded the same concession.

7. While controverting the above mentioned arguments, the learned State counsel has argued that the quantity of contraband recovered in the instant case is commercial quantity, and therefore, rigors of Section 37 of the NDPS Act are involved. According to learned State counsel, the direct allegations with regard to dealing with contraband are there against the petitioner, and that in view of her role in the commission of offence, viz-a-viz quantity of contraband, she is not entitled to the benefit of bail.

8. The record has been perused carefully.

9. A careful perusal of record shows that in the present case, there are several relevant factors which are required to be taken into consideration before arriving at any decision with regard to instant bail petition. Those factors are:-

- i) that no contraband has been recovered from the possession of the petitioner and therefore, the rigours of Section 37 of the NDPS Act are not attracted in the present case;
- ii) that she is already in custody for a period of four months and ten days;
- iii) that she has been nominated by her co-accused in his confessional statement;
- iv) that the nomination of petitioner is fourth degree

nomination;

- v) that nothing is left to be recovered from the possession of the petitioner;
- vi) that the trial is not likely to be concluded in near future;
- vii) that the detention of petitioner in judicial lock-up is not likely to serve any purpose; and
- viii) that the petitioner has clean antecedents as she has never been prosecuted or convicted for any other offence; and

10. Taking into consideration the cumulative effect of all the aforesaid factors, the present petition deserves to be allowed. Hence, the same is hereby allowed and the petitioner is admitted to bail, subject to furnishing bail bonds to the satisfaction of the learned trial Court. In case, the learned trial Court concerned is not available, on the date of furnishing bail bonds, the learned Sessions Judge shall be at liberty to assign the above case, for the above-mentioned purpose, to any other Court.

11. It is, however, made clear that any observation made here-in-above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(Surya Partap Singh)
Judge

September 8, 2025

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No