

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:172222



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CRM-M-49213-2025 (O&M)
Date of decision:09.12.2025

Shera Singh @ Guddu

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRAPresent: Mr. P.S. Sekhon, Senior Advocate with
Mr. Amandeep Singh, Advocate for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. The present petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking regular bail in case bearing FIR No.33, dated 01.03.2025, registered under Sections 15, 22 and 29 of the NDPS Act, at Police Station Patran, District Patiala.

2. As per the allegations on 01.03.2025, accused Abdul Shah @ Happy Khan and Mustaq Shah were apprehended by a police party on suspicion and on conducting search, 1200 intoxicating tablets of Alprazolam and 6 kgs of dried poppy husk was recovered from their conscious possession, which were taken into possession. The above named accused were formally arrested. The accused Abdul Shah suffered a disclosure statement on interrogation stating that the recovered tablets and poppy husk was supplied to them by the present petitioner and he along with co-accused

Mustaq Shah used to sell it further. Co-accused Mustaq Shah also suffered a similar disclosure statement. The petitioner was nominated as an accused. Offence under Section 29 of the NDPS Act was added against him. He was arrested on 03.03.2025. Investigation now stands concluded.

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, which cannot be considered to be admissible in evidence. He is in custody since 06.03.2025. No recovery has been effected from him. He was previously implicated in another case bearing FIR No.22, dated 27.05.2024 by the police officials, who had demanded illegal gratification from him. His involvement in other cases cannot be considered to be a reason for denying benefit of bail to him. The trial will take considerable time to conclude. His further incarceration would not serve any useful purpose. It is, therefore, argued that the petition deserves to be allowed.

4. Per contra, learned State counsel has argued that allegations against the petitioner are serious in nature. The petitioner has been involved in one more case of similar nature and there are chances of his absconding or committing similar offences, if extended benefit of bail. It is, therefore, argued that the petition does not deserve to be allowed.

5. This Court has heard the rival submissions made by learned counsel for the parties at a considerable length.

6. The petitioner is alleged to have supplied contraband to accused Abdul Shah @ Happy Khan and Mustaq Shah. No recovery has been effected from him. He is in custody since 06.03.2025. Trial will take considerable time to conclude. His continued detention would not serve any

useful purpose. Rigors of Section 37 of the NDPS Act are not attracted in this case. 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 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. In view of the above discussion, this Court is of the opinion that the bar under Section 37 of the Act does not come in the way of granting bail to the petitioner. The petitioner is in custody since long. 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 preventive and the deprivation of liberty has been considered as a punishment. Keeping in view the discussion as made above, this Court is of the considered opinion that a case for release of the petitioner is made out. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal as well as surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7. 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.

09.12.2025

harjeet

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No