



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

234

CRM-M-49648-2025

Date of decision: 16th September, 2025

Harman Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

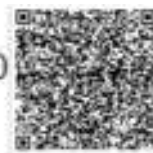
Present: Mr. Raghav Soni, Advocate for the petitioner.

Mr. Vivek Sharma, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 38 dated 01.03.2025 registered under Sections 21(c), 29 and 27-A of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short '*NDPS Act*') at Police Station Chheharta, District Police Commissionerate Amritsar.

2. As per the allegations, on 01.03.2025, the accused Amandeep Singh @ Sonu and Pawan Kumar were apprehended by a police party on the basis of suspicion and on conducting search, 265 grams of *heroin* kept in a polythene bag and held in the right hand of accused Amandeep Singh, was recovered. Both of them were arrested. The contraband was also taken into possession by the police. The above named accused were interrogated and suffered disclosure statements to the effect that the recovered contraband



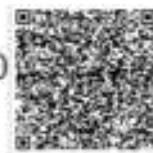
was to be purchased by Ranjit Kumar and Simranjit Singh, who were nominated as additional accused and were arrested. On interrogation, they disclosed that they had to purchase the contraband from the accused Amandeep Singh and Pawan Kumar and had to sell it further to the present petitioner. He was nominated as an accused and was arrested on 06.03.2025. Investigation now stands completed.

3. It is argued by learned counsel for the petitioner that he was not named in the FIR. He has been nominated as an accused on the basis of disclosure statements of the co-accused Simranjit Singh and Ranjit Kumar, which cannot be considered to be admissible in evidence. No recovery has been effected from him. There is no material to connect him with the case. He has been in custody since 06.03.2025. Trial will take considerable time to conclude. Apart from this case, he has been involved in one case under the provisions of Indian Penal Code and cannot be denied benefit of bail due to that reason alone. His further incarceration would not serve any useful purpose and would be violative of his right under Article 21 of Constitution of India. It is, therefore, urged that he deserves to be released on bail.

4. *Per contra*, learned State counsel controverting the contentions as raised by petitioner's counsel, has argued that recovery in this case relates to commercial quantity of contraband thereby attracting the bar under Section 37 of NDPS Act. The allegations against the petitioner are serious. It is, therefore, urged that he does not deserve to be extended benefit of bail.

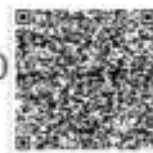
5. This Court has heard learned counsel for the parties at considerable length.

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 Amandeep Singh @ Sonu and Pawan Kumar, from whom recovery of commercial quantity of 265 grams of *heroin* 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. As per the custody certificate, the petitioner has clean antecedents. Though as submitted in the petition, he is



involved in one case registered under Sections 323, 325, 148 and 149 of IPC. He has been in custody since 06.03.2025. Challan has been presented. Trial is likely to take long time to conclude. The bar under Section 37 of NDPS Act does not come in the way of granting bail to the petitioner. 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. As per the discussion 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/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.

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

[MANISHA BATRA]
JUDGE

16th September, 2025

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No