

CRM-M-51585-2025

2025:PHHC:134446



139+228

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

CRM-M-51585-2025

Date of decision: September 25, 2025

Hawal Masih alias Hewal Masih

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Vipin Mahajan, Advocate for the petitioner.

Mr. Baljinder Singh Sra, Additional AG Punjab.

SUMEET GOEL, J. (ORAL)

CRM-39212-2025

Application is allowed, subject to all just exceptions. Registry is directed to carry out necessary correction in the Head note as well as prayer clause of the main petition.

CRM-M-51585-2025

Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No.34 dated 15.04.2025, registered for the offences punishable under Sections 21(C), 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), Section 111 of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS')

CRM-M-51585-2025

and Section 52 of the Prisons Act, at Police Station Dorangla, District Gurdaspur.

2. The gravamen of the FIR in question is that the petitioner is an accused of being involved in an FIR pertaining to NDPS Act involving alleged recovery of 255 grams of Heroin from co-accused, namely, Kuldeep Singh, when he was apprehended along with his co-accused, namely, Baljinder Singh and Namandeep Singh, on 15.04.2025. On the disclosure of Kuldeep Singh, another co-accused, namely, Satnam Singh was nominated in this case; on the disclosure of said Satnam Singh, other co-accused, namely, Prabhjot Singh and Harnoor were nominated; further on the disclosure of co-accused, namely, Harnoor, the petitioner was nominated in this case and arrested on 24.04.2025.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 24.04.2025. Learned counsel has further submitted that the mandatory provisions of the NDPS Act have not been complied with, and thus, the prosecution case suffers from inherent defects. Learned counsel has further iterated that sole basis to array the petitioner as an accused is the disclosure statement of co-accused, namely Harnoor. Learned counsel has further iterated that the petitioner has suffered incarceration for more than 04 months. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, thus, he does not deserve the concession of the regular bail. The State

CRM-M-51585-2025

counsel seeks to place on record custody certificate dated 24.09.2025 in the Court today, which is taken on record.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. The petitioner was arrested on 24.04.2025 and is in continuous custody since then. The culmination of investigation and the trial emanating therefrom, in case, occasion so arises, will take long time. The petitioner has been implicated as an accused in the FIR in question solely on the basis of disclosure statement of Harnoor. As per prosecution version, there is no other material available to connect the petitioner with the contraband except for the said disclosure statement. It is pertinent to note that such disclosure statements, in the absence of corroborative evidence hold limited evidentiary value and cannot be sole basis for implicating the petitioner. The reliance on this unsubstantiated statement raises serious doubts about the fairness and objectivity of the investigation. It is not in dispute that the petitioner was not present at the spot. The veracity and weightage required to be attached to the disclosure statement made by the co-accused will be fully tested at the time of trial. The rival contentions raised at Bar give rise to debatable issues, which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

CRM-M-51585-2025

6.1. At this juncture, it would be apposite to refer to a judgment passed by this Court in *Anshul Sardana versus State of Punjab*, passed in **CRM-M-65094-2024 (2025: PHHC:004198)**, wherein, after relying upon the *ratio decidendi* of the judgments of the Hon'ble Supreme Court in *Tofan Singh versus State of Tamil Nadu*, AIR 2020 Supreme Court 5592; *Smt. Najmunisha, Abdul Hamid Chandmiya @ Ladoo Bapu versus State of Gujrat, Narcotics Control Bureau*, 2024 INSC 290; *State by (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr.*, 2022 (1) RCR (Criminal) 762; and *Vijay Singh vs. The State of Haryana*, bearing Special Leave to Appeal (Crl.) No.(s) 1266/2023, decided on 17.05.2023, has held thus:

“6.3 It is a well established principle of law that a confession made by a co-accused under Section 67 of the NDPS Act is inherently a very weak piece of evidence. Such statement(s), by themselves, cannot form the sole basis for the conviction of an individual and must be scrutinized with utmost caution in conjunction with other substantive evidence. Moreover, no recovery has been effected from the possession of the petitioner, who has been subsequently implicated as an accused solely on the basis of disclosure statement of the co-accused. However, as regular bail pertains to life and liberty of individual, Courts are obligated to strike a balance between safeguarding personal liberty and ensuring the effective administration of justice as also investigation. The final evidentiary value and admissibility of the disclosure statement made by a co-accused fall within the domain of the trial Court and are to be adjudicated during the course of the trial in accordance with established principles of law. However, while adjudicating a plea for regular bail, this Court cannot remain oblivious to the circumstances under which the petitioner has been arraigned or implicated, including the nature of the allegations, the evidence linking the petitioner to the offence as well as the specific role attributed to the petitioner in the commission of the alleged offence. A prima facie examination of these factors is essential to ensure that the process of law is not misused, abused or misdirected.”

6.2. As per custody certificate dated 24.09.2025 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of 04 months and 30 days, & is not shown to be involved in any other FIR(s).

CRM-M-51585-2025

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned trial Court/Duty Magistrate, the petitioner shall remain bound by the following conditions:

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.
- (viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after his being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is

CRM-M-51585-2025

mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned trial Court/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

September 25, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No