

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

243

CRM-M-52298-2025

Date of decision: 20th November, 2025

Umer Ali

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sahil Choudhary, Advocate for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

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. 775 dated 13.08.2024 registered under Section 21(C) of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS') at Police Station City Yamuna Nagar, District Yamuna Nagar.

2. As per the allegations, on 13.08.2024, on the basis of a secret information, accused Gulzar was apprehended and 260 grams of heroin was recovered from him. On interrogation, he suffered disclosure statement to the effect that he had purchased the contraband from the co-accused Jahangir @ Badshah. He was arrested on 12.02.2025. On interrogation, he suffered disclosure statement that he had brought the heroin from the present petitioner. On the basis of the same, the present petitioner was nominated as



an accused. He was arrested on 23.05.2025.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of second disclosure statement of the co-accused which cannot be considered to be admissible in evidence. He was not named in the FIR. No recovery has been effected from him. There is no transcript of the calls which had allegedly taken place between him and the accused. The ID of the mobile phone which is alleged to be used by the petitioner for having conversation with the co-accused, is not in his name. Only one out of twenty prosecution witnesses has been examined so far. He does not have any criminal antecedents. His further incarceration would not serve any useful purpose. It is, therefore, urged that he deserves to be released on bail.

4. Status report has been filed. Learned State counsel has argued while referring terms of the status report that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be released on bail. As many as 26 phone calls during the period from 13.07.2024 to 13.08.2024 had been exchanged between the petitioner and the co-accused Jahangir showing his complicity in the crime along with the said co-accused. Therefore, it is urged that the petition does not deserve to be allowed.

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

6. The petitioner is alleged to have sold 260 grams of heroin to the co-accused Jahangir. His name was disclosed in the second disclosure statement of the co-accused Jahangir. As per the case of prosecution, there



were several calls between the petitioner and the co-accused Jahangir during the relevant period, however, no transcript of those calls has been produced to show that they were with regard to dealing with the contraband. The cell phone as allegedly used by the petitioner is also not found to be on his identity proof. The petitioner has clean antecedents. 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.

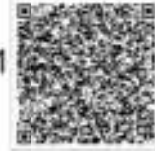
7. It is also unequivocally established that, to be granted bail, the accused charged with offence under the provisions of NDPS Act must fulfill the conditions stipulated in Section 37 of the Act. A contention has been raised that the rigors of Section 37 of the NDPS Act are attracted in the present case as there is recovery of commercial quantity of contraband.

8. The case of the prosecution is that the name of the petitioner was disclosed by the co-accused, from whom recovery of commercial quantity of contraband 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 petitioner is stated to be involved one more case under the NDPS Act but he is on bail in that case. He is in custody since 23.05.2025. Challan has been presented. Trial is likely to take considerable 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. 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.

9. 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.

10. 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.

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

[MANISHA BATRA]
JUDGE

20th November, 2025

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*