



CRM-M-52165-2025

-1-

**(224) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-52165-2025

Date of decision : 28.11.2025

ROHIT KUMAR

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sandeep Saini, Advocate for the petitioner

Mr. Neeraj Poswal, AAG, Haryana

MANISHA BATRA, J.

1. The instant petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") for grant of regular bail in case arising out of FIR No.336, dated 06.10.2024 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short "NDPS") at Police Station Baldev Nagar, District Ambala, Haryana.

2. The aforementioned FIR was registered on the allegations that on 06.10.2024, on the basis of a secret information, a raiding party was formed which apprehended the accused-Jitender Sharma alias Jony. On conducting search 180 strips having a total number of 1440 intoxicant capsules were recovered from his conscious possession which were taken into custody by the Police. The accused-Jitender Sharma @ Jony was formally arrested. He was interrogated and suffered a

**CRM-M-52165-2025****-2-**

disclosure statement to the effect that he had purchased these narcotic capsules from the present petitioner, who was nominated as additional accused. The recovered capsules were found to be weighing as 900 grams (without strips) containing contents of Tramadol, Dicyclomine and Acetaminophen. The call detail record of the mobile phones of the petitioner and the co-accused was also collected and it was found that they had exchanged calls with each other. The petitioner was arrested on 08.04.2025. He was interrogated and suffered disclosure statement admitting his involvement in the crime and also disclosed the name of co-accused Suresh Kumar Gupta from whom he used to purchase the narcotic capsules. The said Suresh Kumar Gupta was also arrested subsequently. Investigation now stands completed and the challan qua the petitioner and the co-accused has been filed before the learned trial Court.

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 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. His involvement in other cases cannot be considered to be a reason for denying the benefit of bail to him. The rigors of Section 37 of NDPS Act are not attracted against him. With these broad submissions, it is urged that he deserves to be released on bail.

4. Per contra, learned State Counsel has argued that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be extended benefit of bail.

**CRM-M-52165-2025****-3-**

5. This Court has heard rival submissions made by both the parties.

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 Jitinder Sharma @ Jony, from whom recovery of commercial quantity of intoxicating tablets i.e. tramadol, dicyclomine & acetaminephen 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

**CRM-M-52165-2025****-4-**

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 case of the prosecution is that the call detail records of the phone of the petitioner and the one used by the co-accused also show that there were regular phone calls between them. It is well established that mere call details, without the transcript of the conversations exchanged between the accused persons, would not be considered to be corroborative material in absence of substantive material found against them. In view of the above discussion, this Court is of the opinion that the bar under Section 37 of the NDPS Act does not come in the way of granting bail to the petitioner. The petitioner is in custody since 10.04.2025. Challan has been presented and no prosecution witnesses have been examined so far. 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 be preventive. The deprivation of liberty has been considered as a punishment. As such, Court is of the considered opinion that a case for release of the petitioner on bail 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

**CRM-M-52165-2025**

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

28.11.2025
Amit Sharma

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No