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

**CRM-M-52508-2025 (O&M)
Date of decision : 11.12.2025**

VICKY @ VIRK

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA (ORAL)

Present: Mr. K.B. Raheja, Advocate for the petitioner

Mr. Roshandeep Singh, AAG, Punjab

MANISHA BATRA, J. (ORAL)

1. The instant petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking grant of regular bail in case arising out of FIR No.57, dated 14.04.2024, under Sections 21, 23, 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS') and Section 21/C, 25 and 27A of NDPS Act and Section 25 of Arms Act, 1959 (added later on) registered at Police Station Sadar Ferozepur, District Ferozepur, on the allegations that on 14.04.2024, on the basis of a secret information, the accused-Manjit Singh @ Mani was apprehended and 7 Kgs of heroin alongwith drug money of Rs.36 lakhs and illicit weapons were recovered from his conscious possession; while he was coming on a white Elantra



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car. On the basis of his disclosure statement, the accused-Harpreet Singh alias Happy was nominated as additional accused. The accused-Rohit Sethi was arrested and suffered a disclosure statement to the effect that the petitioner alongwith the co-accused was involved in the sale of contraband. On the basis of disclosure statement, the present petitioner and co-accused were nominated as such. The petitioner was found to be in custody in connection with some other case. His presence was secured by way of issuance of production warrants and he was arrested on 14.06.2025. He to suffered a disclosure statement admitting his involvement in purchase of contraband and then selling the same. Some other persons were also nominated as accused during the course of investigation which now stands completed.

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. No recovery has been effected from him. He is in custody for sufficiently long time. His involvement in other cases cannot be considered to be a reason for denying benefit of bail. The co-accused Shivam, who was similarly situated, has been extended benefit of bail. On parity, he too deserves to be extended the same benefit. None of the 42 prosecution witnesses has been examined so far. With these broad submissions, it is urged that he deserves to be released on bail.

3. Custody certificate has been filed. Learned State counsel has argued that the petitioner alongwith the co-accused was involved in cross-border smuggling of sale/purchase of contraband. He is a habitual



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offender. There are chances of his committing similar offences or absconding, if extended benefit of bail. It is, therefore, argued that the petition does not deserves to be allowed.

4. This Court has heard rival submissions made by learned counsel for both the parties.

5. As per the custody certificate, the petitioner is involved in 05 other cases under the provisions of NDPS Act and one case under the provisions of Prisons Act, 1894. Strict adherence to the rule of denial of bail on account of pendency of other cases, would naturally lead to denial of concession of bail to the petitioner, however, the well-settled proposition of law is that an accused should not be denied benefit of bail due to that reason and the evidence of each case is to be appreciated during the course of trial on that particular case. It is also well-settled that 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



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of the NDPS Act are attracted in the present case as there is recovery of commercial quantity of contraband.

6. The case of the prosecution is that the name of the petitioner was disclosed by the accused-Rohit Sethi and as per his disclosure statement the present petitioner and other accused were involved in illicit trade of contraband. 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. 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 long time. No prosecution witnesses has been examined, out of 42 prosecution witnesses. 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:-



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(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.

(vi) he shall surrender his passport, if any, furnish details of his cell phone and Aadhaar card, and shall not change his mobile number(s) during the pendency of the trial.

7. 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.

8. 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.



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

**(MANISHA BATRA)
JUDGE**

**11.12.2025
Amit Sharma**

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