



CRM-M-57450-2025 -1-

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

**CRM-M-57450-2025
Date of decision : 15.12.2025**

SURAJ MASIH

... Petitioner

Versus

STATE OF HARYANA

...Respondent

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

Present: Mr. Sandeep Saini, Advocate for the petitioner

Mr. Neeraj Poswal, AAG, Haryana

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.76 dated 21.03.2025 registered under Sections 21(C), 27(A) and 28 of Narcotics Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS') and Section 308(2) of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') registered at Police Station Parao, District Ambala. As per the allegations, on 21.03.2025, the accused-Hira Chawla was arrested on the basis of a secret information and 01 Kg of heroin was recovered from his conscious possession, which was taken into custody. On interrogation, accused-Hira Chawala suffered a disclosure statement to the effect that he had purchased the contraband for Lakhan and had paid a sum of Rs.10

**CRM-M-57450-2025****-2-**

lakhs. Recovery of three phones and some money was also effected from accused-Hira Chawala. Then the accused suffered another disclosure statement on 21.03.2025 saying that on asking of accused Lakhan he had purchased heroin from a Nigerian person. The accused-Lakhan was nominated as such. He was arrested on 02.08.2025. He too suffered a disclosure statement on the basis of which accused-Shivam Sood was nominated as such. Shivam Sood was arrested on 02.08.2025. On the disclosure statement of accused-Shivam Sood, one Mohit Walia alias Dabbu was nominated and on the basis of subsequent disclosure statement of co-accused Lakhan, the present petitioner was nominated as an accused. The petitioner was arrested alongwith the co-accused on 06.08.2025. The petitioner suffered disclosure statement admitting his involvement in the crime and disclosed that he had to purchase 50 grams of heroin out of the recovered contraband. The trial has commenced and for the commission of aforementioned offences.

2. 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. No recovery has been effected from him. He is on bail in another case registered against him. His continued detention would not serve any useful purpose. The trial will take considerable time to conclude. With these broad submissions, it is urged that the petition deserves to be allowed.

3. Status report and custody certificate have been filed. Learned State counsel has argued that there are serious allegations



against the petitioner who was in regular touch with the co-accused. There are several call details showing complicity between the petitioner and the accused. There are chances of petitioner's committing similar offences or absconding, if extended benefit of bail. It is, therefore, stressed that the petition does not deserve to be allowed.

4. This Court has heard the rival submissions made by the learned counsel for the parties at considerable length.

5. So far as the pendency of other FIR as against the petitioner is concerned, the well settled proposition of law is that appreciation of evidence during the course of trial is to be looked into with reference to the evidence in that particular case alone and not with respect to evidence in other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases, would lead to denial of concession of bail. It is equally well-settled proposition of law that an accused should not be denied benefit of bail on this ground alone. 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

**CRM-M-57450-2025****-4-**

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 coaccused-Lakhan 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. 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. 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 since

**CRM-M-57450-2025****-5-**

07.08.2025. Only challan has been presented in the case, 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 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.

**CRM-M-57450-2025****-6-**

(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.

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

15.12.2025
Amit Sharma

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