

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-57046-2025

Date of decision: 12th December, 2025

Gurwinder Chand @ Kewra

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

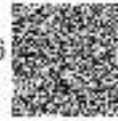
Present: Mr. Rajiv Kumar Saini, Advocate for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

1. The instant one is the second petition that 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. 154 dated 17.10.2024 registered under Sections 21(c) and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') at Police Station Dinanagar, Gurdaspur. The previous petition was dismissed as withdrawn on 07.05.2025.

2. As per the allegations, on 17.10.2024, on the basis of a secret information, accused Deepak Kumar was apprehended by a police party and recovery of 01 kg. 350 grams of heroin was effected from his conscious possession, which was taken into custody by the police. He was formally arrested. On interrogation, he suffered disclosure statement, on the basis of which, accused Amit Kumar and Vipenpreet Singh were nominated as such.



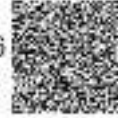
Offence under Section 29 of the NDPS Act was added. Accused Amit Kumar was arrested on 29.10.2024. On his disclosure, accused Baljinder Singh @ Bhinda, Jaskaran Singh @ Jas and the present petitioner were nominated as accused in this case on the allegations that they were the supplier of the recovered contraband. The petitioner along with above named accused Jaskaran Singh was arrested on 24.11.2024. Investigation 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 the disclosure statement of the above named co-accused, which cannot be considered to be admissible in evidence. He is in custody since long. Trial will take considerable time to conclude as even charges have not been framed so far. There are total 14 prosecution witnesses. His involvement in other cases cannot be made a ground for denying him the benefit of bail in the given circumstances. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be released on regular bail.

4. Status report along with the custody certificate of the petitioner has been filed by the respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations levelled against the petitioner as well as his criminal antecedents, he is not entitled to get benefit of bail. It is, thus, argued that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

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 above named co-accused, from whom recovery of commercial quantity of the contraband was 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 was arrested on 24.11.2024. There is nothing on record, at this stage, to connect the petitioner either with the subject crime or to show that he was connected with the co-accused in any manner at the relevant time. Investigation has been completed



and challan has been filed. Conclusion of trial would take considerable time. Pendency of other cases against him cannot be made a ground for denying him concession of bail in given circumstances. Keeping in view the aforesaid facts and circumstances, this Court is of the considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

[MANISHA BATRA]
JUDGE

12th December, 2025
Waseem Ansari

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |