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

CRM-M-64163-2025 (O&M)
Date of decision : 22.12.2025

SURAJ

... Petitioner

Versus

STATE OF HARYANA

...Respondent

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

Present: Mr. L.K. Gollen, Advocate,
Mr. Bharti Gollen, 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.525 dated 06.09.2025 registered under Sections 21C and 27A of Narcotics Drugs and Psychotropic Substances Act (*for short "NDPS"*) registered at Police Station Sadar Thanesar, District Kurukshetra.

2. The aforementioned FIR was registered on the allegations that on 06.09.2025, the accused-Lovelesh @ Monty and Sikandar Singh were apprehended on the basis of a secret information and recovery of 287 Grams of heroin was recovered from them. On interrogation, they suffered disclosure statement to the effect that out of 287 Grams heroin,



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50 Gram heroin was purchased to be supplied to the present petitioner and he had given a sum of Rs.50,000/- for that purpose. The petitioner was nominated as such. He was arrested on 09.09.2025. Investigation now stands completed and challan has been presented.

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 admissible in evidence. No recovery has been effected at his instance. The rigors of Section 37 of the NDPS are not attracted qua him. He is in custody since long. He has clean antecedents. His further incarceration would not serve any useful purpose. It is thus, urged that he deserves to be released on bail.

4. Status report and custody certificate have been filed. It is argued by learned State counsel that the call detail record of the mobile phone of the petitioner and the co-accused has been collected and that shows that they had been talking to each other. It is further argued by Learned State counsel that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be extended benefit of bail.

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

6. The petitioner is alleged to have given a sum of Rs.50,000/- to the co-accused Lovelesh for the purpose of supplying 50 grams of heroin to him. No recovery has been effected from him. He is in custody since 10.09.2025. He has been nominated on the basis of disclosure statement of the co-accused. The well settled proposition of



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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.

6. The case of the prosecution is that the name of the petitioner was disclosed by the accused-Lovelesh @ Monty, from whom recovery of commercial quantity of heroin has been effected. As per his disclosure statement, out 287 grams of heroin, 50 gram heroin had to be supplied to the petitioner and he had paid Rs.50,000 for that purpose. 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



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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. The petitioner has clean antecedents. 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 10.09.2025. 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.



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(ii) The petitioner shall not leave the country under any circumstance without permission of the learned trial Court.

(iii) The petitioner shall appear before the learned trial Court as and when directed.

(iv) The petitioner 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 switched on all times.

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

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

(MANISHA BATRA)
JUDGE

22.12.2025
Amit Sharma

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