

2025:PHHC:160756



**CRM-M-64150-2025**

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

**CRM-M-64150-2025**  
**Date of Decision: 19.11.2025**

**GULAM NABI BABA**

**... Petitioner**

**Versus**

**STATE OF PUNJAB**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Tanheer Singh Bariana, Advocate  
for the petitioner.

Mr. M.S. Toor, A.A.G., Punjab.

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**JASJIT SINGH BEDI, J.**

The prayer in this 5<sup>th</sup> petition under Section 483 BNSS is for the grant of regular bail in case bearing FIR No.98 dated 04.09.2022 registered under Sections 15-29-61-85 of NDPS Act at Police Station Hariana, District Hoshiarpur.

2. The brief facts of the case are that while the police party was on patrolling duty and had done a nakabandi, one White colour Swift Car driven by a person with short hair was seen coming from Dholwaha side. The driver of the car on noticing the police party checking vehicles stopped his car at some distance from the naka and was turning back. Then his car stopped. The driver then started running back leaving behind his car. He was caught and he disclosed his name as Ghulam Nabi Baba (petitioner).



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3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There are violations of the mandatory provisions of the NDPS Act regarding search and seizure including Sections 42 & 50. The prosecution version is inherently unbelievable. As the petitioner is in custody since 04.09.2022 but only 07 out of the 14 prosecution witnesses have been examined so far, the Trial of the present case is not likely to be concluded anytime soon and therefore, he is entitled to the concession of bail.

4. On the other hand, the learned State counsel contends that the petitioner is a habitual offender. He is an accused in 02 other case arising out of FIR No.21/2006 dated 01.02.2006 U/s 15 NDPS Act, P.S. Bhulath and FIR No.16/2022 dated 08.02.2022 U/s 22 NDPS Act, P.S. Gardhiwal. The instant petition is the 5<sup>th</sup> bail application of the petitioner, the last one having been withdrawn on 16.10.2024 in CRM-M-49690-2024. Therefore, keeping in view the antecedents of the petitioner, he is not entitled to the concession of bail, moreso in view of the bar contained in Section 37 of the NDPS Act.

5. I have heard the learned counsel for the parties.

6. This is the 5<sup>th</sup> bail application on behalf of the petitioner. The details of his earlier bail applications are as under:-

| Sr. No. | Bail Application | Date of Decision                     |
|---------|------------------|--------------------------------------|
| 1.      | CRM-M-4275-2023  | Dismissed as withdrawn on 02.02.2023 |
| 2.      | CRM-M-57806-2023 | Dismissed as withdrawn on 22.11.2023 |
| 3.      | CRM-M-9463-2024  | Dismissed as withdrawn on 28.02.2024 |



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|----|------------------|--------------------------------------|
| 4. | CRM-M-49690-2024 | Dismissed as withdrawn on 16.10.2024 |
|----|------------------|--------------------------------------|

7. The details of other cases registered against the petitioner are as under:-

| Sr. No. | FIR Nos. and date                | Sections    | Police Station |
|---------|----------------------------------|-------------|----------------|
| 1.      | FIR No. 21/2006 dated 01.02.2006 | 15 NDPS Act | P.S. Bhulath   |
| 2.      | FIR No.16/2022 dated 08.02.2022  | 22 NDPS Act | P.S. Gardhiwal |

8. Apparently, the petitioner is a habitual offender with 02 other cases registered against him under the NDPS Act. No change in circumstances whatsoever have been pointed out by the counsel for the petitioner after the 4<sup>th</sup> bail application of the petitioner came to be argued and withdrawn on 16.10.2024 in CRM-M-49690-2024.

9. The Hon’ble Supreme Court in the case of Union of India Versus Vigin K. Varghese, SPL (Crl.) No.7768 of 2025, held as under:-

*“14. We have perused the impugned orders dated 22.01.2025 and 12.03.2025. Both orders proceed essentially on four planks, absence of knowledge of the cocaine to the respondent in the imported consignment, absence of antecedents, length of custody and perceived delay in conclusion of the trial, and a consequent conclusion that there exist reasonable grounds to believe that the accused is not guilty of the offence.*

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*16. Further, while granting bail, the High Court recorded that there were no antecedents against the applicant. The material*



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*before this Court includes the Union's assertion that the respondent had already been apprehended in connection with an earlier seizure of approximately 198.1 kilograms of Methamphetamine and 9.035 kilograms of Cocaine allegedly imported through the same channel only days before the present seizure. That assertion is neither noticed nor answered in the impugned orders.*

*17. The High Court then, on the strength of those premises, recorded a finding that there exist reasonable grounds to believe that the applicant is not guilty of the alleged offence, treating prolonged incarceration and likely delay as the justification for bail. Such a finding is not a casual observation. It is the statutory threshold under Section 37(1)(b) (ii) which would disentitle the discretionary relief and grant of bail must necessarily rest on careful appraisal of the material available. A conclusion of this nature, if returned without addressing the prosecution's assertions of operative control and antecedent involvement, risks trenching upon appreciation of evidence which would be in the domain of trial court at first instance.*

*18. This Court ordinarily shows deference to the discretion exercised by the High Court while considering the grant of bail. However, offences involving commercial quantity of narcotic drugs stand on a distinct statutory footing. Section 37 enacts a specific embargo on the grant of bail and obligates the Court to record satisfaction on the twin requirements noticed above, in addition to the ordinary tests under the Code of Criminal Procedure.*



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19. *In the present case, the High Court has not undertaken the analysis of those twin requirements with reference to the material placed by the prosecution. The orders dated 22.01.2025 and 12.03.2025 do not advert to the allegation regarding the respondent's prior involvement in a seizure of narcotic drugs and psychotropic substances only days prior to the seizure forming the subject matter of the present complaint, nor do they engage with the prosecution's assertion as to the respondent's role in arranging, importing, clearing and supervising the consignments. The omission to consider these factors bears directly upon the statutory satisfaction required by Section 37(1)(b).*

20. *We are of the view that, in the facts of this case, it would not be appropriate for this Court at the threshold stage itself to render findings on whether there are or not reasonable grounds, for believing that the respondent is not guilty, or on whether he is likely to commit any offence while on bail. That factual assessment, which the statute requires to be made and recorded with reasons, is one that the High Court must undertake upon a complete and fair appraisal of the rival contentions based on materials placed before it.*

21. *In our considered view, the interests of justice would be met if the impugned orders are set aside and the matter is remitted to the High Court for fresh consideration of the respondent's prayer for bail, keeping in view the parameters of Section 37 of the NDPS Act, the nature and quantity of contraband alleged to have been seized including 50.232 kilograms of Cocaine on 06.10.2022 and 07.10.2022, the role attributed to the respondent in the said import, the allegation of his involvement*



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*in an earlier seizure of 198.1 kilograms of methamphetamine and 9.035 kilograms of cocaine in early October 2022, the period of custody undergone since October 2022, and the stage of trial before the Special Court.*

(Emphasis supplied)

10. This Court in the case of **Soni Singh @ Chamkaur Singh Versus State of Punjab, CRM-M-31645-2022, decided on 20.10.2022**, held as under:-

*“Admittedly, the petitioner in the present case is named in the disclosure statement of the arrested accused. Subsequently thereto 3Kgs of Poppy Husk was recovered at his instance which is a non commercial quantity. It may be relevant to mention here that limitations to the grant of bail under Section 37 of the NDPS Act are in addition to those prescribed under Cr.PC or any other law inforce on the grant of bail as has been set out by the Hon'ble Supreme Court in Satpal Singh Vs. State of Punjab 2018(5) RCR (Criminal) 152. In the present case, the petitioner is involved in two other cases under the NDPS Act. Thus, as he is a habitual offender, he is not entitled to the grant of bail even under Section 439 Cr.PC keeping in view his antecedents. Even otherwise, assuming that the rigors of Section 37 of the NDPS Act did not apply to the petitioner, that by itself would not ipso facto lead to the grant of bail to the petitioner.*

*In view of the above discussion, I find no merit in the present petition and the same is therefore dismissed.”*

11. Keeping in view the allegations levelled against the petitioner as well as his antecedents the satisfaction under Section 37 of the NDPS Act that



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he has not committed an offence and is not likely to commit one in the future cannot be recorded.

12. In view of the above discussion, I do not deem it appropriate to grant him the concession of bail and therefore, the present petition stands dismissed.

13. However, the Trial Court is directed to conclude the Trial as expeditiously as possible but in any case not later than 06 months from the next date of hearing fixed before it.

(JASJIT SINGH BEDI)  
JUDGE

19.11.2025

JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No