



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

258

CRM-M-64818-2025 (O&M)

Decided on : 16.12.2025

SANTOSH MAGAR

... PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

PRESENT: Mr. Amit Kumar, Advocate and Mr. Naveen Kumar, Advocate
for the petitioner.

YASHVIR SINGH RATHOR, J. (Oral)

1. Present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed for grant of regular bail to the petitioner in case FIR No.449 dated 31.12.2023, under Sections 21, 29-61-85 of NDPS Act, registered at Police Station Sector-31, Faridabad.
2. Status report dated 15.12.2025 by way of affidavit of Assistant Commissioner of Police, Sarai, Faridabad filed by respondent-State through ASI Amit, No.3142/FBD is taken on record.
3. I have heard learned counsel for the petitioner and have gone through the material placed on record.
4. As per case of the prosecution, on 31.12.2023, police party headed by SI Vijay Kumar was on patrolling duty at SLF Mall, Sector-31, Faridabad, when he received secret information to the effect that two persons namely Govind Khatri and Rohit @ Gagan Sharma who indulge in trade of contraband smack can be apprehended at bypass road Village Etmadpur, Faridabad. Thereafter, intimation was sent under Section 42 of NDPS Act and on the identification of the secret informer, two pedestrians



were arrested, who disclosed their names as Govind Khatri and Rohit @ Gagan Sharma. Their personal search was conducted and 336 grams of charas was recovered from Govind Khatri and 242 grams of charas was recovered from Rohit @ Gagan Sharma, which was taken into possession. They suffered disclosure statements to the effect that the contraband had been purchased by them from one Santosh Magar (petitioner). Thereafter, petitioner was arrested on 16.08.2025. After completion of investigation final report has been presented.

5. Learned counsel for the petitioner argued that he has been falsely implicated in the present case. His name has cropped up in the disclosure statements of co-accused Govind Khatri and Rohit @ Gagan Sharma, which are not admissible in evidence. No contraband has been recovered from the possession of the petitioner. Challan has already been presented after completion of investigation. Learned counsel further contended that since no recovery has been effected from the petitioner, the rigors of Section 37 of NDPS Act are not attracted and petitioner, thus, be released on bail.

6. A Co-ordinate Bench of this Court in *Anshul Sardana versus State of Punjab*, passed in CRM-M-65094-2024 (2025: PHHC:004198), after relying upon the law laid down by the Hon'ble Supreme Court in *Tofan Singh versus State of Tamil Nadu*, AIR 2020 Supreme Court 5592; *Smt. Najmunisha, Abdul Hamid Chandmiya @ Ladoo Bapu versus State of Gujrat, Narcotics Control Bureau*, 2024 INSC 290; *State by (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr.*, 2022 (1) RCR (Criminal) 762; and *Vijay Singh vs. The State of Haryana*, bearing Special



Leave to Appeal (Crl.) No.(s) 1266/2023, decided on 17.05.2023, has held thus:

"6.3 It is a well established principle of law that a confession made by a co-accused under Section 67 of the NDPS Act is inherently a very weak piece of evidence. Such statement(s), by themselves, cannot form the sole basis for the conviction of an individual and must be scrutinized with utmost caution in conjunction with other substantive evidence. Moreover, no recovery has been effected from the possession of the petitioner, who has been subsequently implicated as an accused solely on the basis of disclosure statement of the co-accused. However, as regular bail pertains to life and liberty of individual, Courts are obligated to strike a balance between safeguarding personal liberty and ensuring the effective administration of justice as also investigation. The final evidentiary value and admissibility of the disclosure statement made by a co-accused fall within the domain of the trial Court and are to be adjudicated during the course of the trial in accordance with established principles of law.

However, while adjudicating a plea for regular bail, this Court cannot remain oblivious to the circumstances under which the petitioner has been arraigned or implicated, including the nature of the allegations, the evidence linking the petitioner to the offence as well as the specific role attributed to the petitioner in the commission of the alleged offence. A prima facie examination of these factors is essential to ensure that the process of law is not misused, abused or misdirected."

7. Petitioner is in custody since 16.08.2025 and his name has cropped up in the disclosure statements of co-accused Govind Khatri and Rohit @ Gagan Sharma. As per their disclosure statement, they purchased the contraband from the petitioner and thereafter, the petitioner was arrested.



Nothing has been recovered from his possession and at this stage, there is no material to connect him with the alleged offence except disclosure statements suffered by co-accused. As to how much evidentiary value will be attached to the said disclosure statements will be seen during the trial. Trial is likely to take sufficiently long time to conclude and no useful purpose will be served to detain the petitioner in custody.

8. Having regard to the aforesaid factual position, but without commenting anything upon the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail on furnishing bail bonds and surety bonds to the satisfaction of learned Trial Court concerned, on usual terms and conditions.

(YASHVIR SINGH RATHOR)
JUDGE

December 16, 2025
Vishal Vardhan

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*