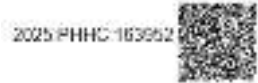


IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(237)



CRM-M-65040-2025

Balkaran Singh @ KakaPetitioner(s)
Versus
State of HaryanaRespondent(s)

Decided on : 26.11.2025
Date of uploading: 26.11.2025

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Aditya Sanghi, Advocate for the petitioner.
Mr. Gurmeet Singh, AAG, Haryana.

SUMEET GOEL, J. (ORAL)

1. Present petition is the second petition, which has been filed under Section 483 of BNSS 2023 on behalf of the petitioner for grant of regular bail in case bearing FIR No.0134 dated 18.04.2025, registered for the offences punishable under Sections 15-C & 29 of the NDPS Act, at Police Station Ellenabad, District Sirsa.
2. The gravamen of the FIR in question is that the petitioner is an accused of being involved in FIR pertaining to NDPS Act involving 200 Kgs 510 gms of poppy husk, allegedly recovered from the co-accused of the petitioner. The petitioner is stated to have been arrested on the basis of disclosure statement made by co-accused of the petitioner.
3. Learned counsel for the petitioner has iterated that the petitioner was initially arrested on 18.06.2025 and is in custody since then. He has submitted that nothing has been recovered from the petitioner and he was arrested on the basis of disclosure statement of co-accused. Learned counsel for the petitioner has further submitted that the mandatory provisions of the NDPS

Act have not been complied with, and thus, the prosecution case suffers from inherent defects. Learned counsel for the petitioner has iterated that out of total 23 prosecution witnesses none has been examined till date. Learned counsel has further iterated that the petitioner has suffered incarceration for more than 5 months and 1 day. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, thus, he does not deserve the concession of the regular bail. Learned State counsel has further submitted that the instant bail plea is barred by the rigors of Section 37 of the NDPS Act, and thus, the same ought to be dismissed. Learned State counsel seeks to place on record custody certificate dated 24.11.2025 in Court, which is taken on record.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. The petitioner was arrested on 18.06.2025 whereinafter investigation was carried out and challan was presented on 06.10.2025. Total 23 prosecution witnesses have been cited but none has been examined till date. The rival contentions raised at Bar give rise to debatable issues shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1. As per custody certificate dated 24.11.2025 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of 5

months and 1 day & is shown to be involved in two more FIRs. In this view of the matter, the rigor imposed under Section 37 of the NDPS Act stands diluted in light of the Article 21 of the Constitution of India.

6.2. At this juncture, it would be apposite to refer to a judgment passed by this Court in **Anshul Sardana versus State of Punjab**, passed in **CRM-M-65094-2024** (2025: PHHC:004198), wherein, after relying upon the *ratio decidendi* of the judgments of 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.*”

Further, as per custody certificate dated 24.11.2025 filed by the learned State counsel, the petitioner is stated to be involved in two more cases.

However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586***; a Division Bench judgment of the Hon'ble Calcutta High Court in case of ***Sridhar Das v. State, 1998 (2) RCR (Criminal) 477*** & judgments of this Court in ***CRM-M No.38822-2022*** titled as ***Akhilesh Singh v. State of Haryana***, decided on 29.11.2021, and ***Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191***.

6.3. Indubitably, the present petition is the second attempt on behalf of the petitioner for securing regular bail. The first one bearing no. CRM-M-49040-2025 was dismissed as withdrawn on 29.09.2025. However, keeping in view the entirety of facts and circumstance of the case in hand, especially keeping in view the extended custody and pace of trial, this Court is inclined to favourably consider the instant plea for bail. A profitable reference, in this regard, can be made to a judgment of this Court passed in ***CRA-S-2332-2023*** titled as ***Rafiq Khan versus State of Haryana and another***; relevant whereof reads as under:

“10. As an epilogue to the above discussion, the following principles emerge:

I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned trial Court/Duty Magistrate, the petitioner shall remain bound by the following conditions:

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.

- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.
- (viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after his being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned trial Court/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

26.11.2025
Naveen

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