

2025:PHHC:176460



CRM-M-67393-2025 (O&M) -1-

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

CRM-M-67393-2025 (O&M)
Date of decision : 19.12.2025

YOGESH KUMAR ALIAS KHALAK

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

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

Present: Mr. Gurmeet Singh Saini, Advocate for the petitioner

Ms. Sakshi Bakshi, AAG, Punjab

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.0057, dated 14.04.2024, under Sections 21, 23, 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS') (Sections 21/C, 25 and 27A of NDPS Act and Section 25 of Arms Act, 1959 added later on) registered at Police Station Sadar Ferozepur, District Ferozepur, on the allegations that on 14.04.2024, on the basis of a secret information, the accused-Manjit Singh @ Mani was

2025:PHHC:176460



CRM-M-67393-2025 (O&M) -2-

apprehended while he was coming in a car and 7 Kgs of heroin alongwith drug money of Rs.36 lakhs and illicit weapons were recovered from his conscious possession. The co-accused-Rohit Sethi, who had been arrested subsequently suffered disclosure statement, on the basis of which the petitioner alongwith other accused was nominated, as such on the allegations that all of them were involved in sale of contraband. The petitioner was arrested on 03.05.2025. Investigation now stands completed.

2. 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 co-accused and on a secret information which had no basis. No recovery has been effected from him. He is in custody since long. He is not involved in any other case of similar nature. His further incarceration would not serve any useful purpose. The co-accused have been extended benefit of bail. The trial will take considerable time to conclude as only challan has been presented and the charges have to be framed yet. Not even a single witness out of 32 prosecution witnesses has been examined so far. His continued detention is not going to serve any purpose. He is not required for further investigation. Accordingly, it is urged that he deserves to be released on bail.

3. Status report and custody certificate have been filed. Learned State counsel has argued that the petitioner is not having clean antecedents. He was involved in cross-border smuggling. There are

2025:PHHC:176460



CRM-M-67393-2025 (O&M) -3-

chances of petitioner's absconding, if extended, benefit of bail. It is, therefore, argued that he does not deserve to be released on bail.

4. This Court has heard rival submissions made by learned counsel for both the parties.

5. So far as the pendency of an FIR under the provisions of Section 103, 3(5) of BNS as against the petitioner is concerned, the well settled proposition of law is that appreciation of evidence during the course of trial is to be looked into with reference to the evidence in that particular case alone and not with respect to evidence in other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases, would lead to denial of concession of bail. The well settled proposition of law is also 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.



CRM-M-67393-2025 (O&M) -4-

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-Rohit Sethi and as per his disclosure statement the present petitioner and other accused were involved in illicit trade of contrabands. 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. 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 03.05.2025. No prosecution witness has been examined, out of 32 prosecution witnesses. The trial is at nascent stage. 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

2025:PHHC:176460



CRM-M-67393-2025 (O&M) -5-

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.
- (ii) He shall not leave the country under any circumstance without permission of the learned trial Court.
- (iii) He shall appear before the learned trial Court as and when directed.
- (iv) He shall provide his address where he would be residing after release and shall not change the same without informing the concerned IO/SHO as well as Trial Court.
- (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.

7. In the event of there being any FIR/complaint lodged against the petitioner, it shall be open to the respondent to seek redressal by filing an application seeking cancellation of bail.

2025:PHHC:176460



CRM-M-67393-2025 (O&M) -6-

8. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and shall not influence the outcome of the trial.

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

**(MANISHA BATRA)
JUDGE**

**19.12.2025
Amit Sharma**

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