



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I. CRM-M-3604-2026

Pawan Petitioner

Vs.

State of Haryana Respondent

II. CRM-M-5379-2026

Raj Kumar Petitioner

Vs.

State of Haryana Respondent

Date of decision: 12.06.2026

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Hitender Kansal, Advocate,
for the petitioner (in CRM-M-3604-2026).

Mr. Arun Gupta, Advocate,
for the petitioner (in CRM-M-5379-2026).

Mr. Ajit Kumar Sharma, DAG, Haryana.

DEEPAK GUPTA, J. (ORAL)

By way of these petitions filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioners seek the concession of regular bail in case FIR No.408 dated 04.07.2025 registered under Sections 20(c), 29, 61 and 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Sadar Thanesar, District Kurukshetra.

2. As per the prosecution case, both the petitioners were travelling in Wagon-R car bearing registration No.HR-07-T-3773 on 04.07.2025, when they were intercepted by the police. During search of the vehicle, recovery of 25 kilograms of ganja was allegedly effected from the trunk of the car. After compliance of the requisite statutory formalities under the NDPS Act, the recovered substance was taken into possession, samples were drawn and subsequently sent to the Forensic Science Laboratory for examination. It is not disputed that investigation stands concluded and the challan has already been presented before the competent Court.

3. Learned counsel for the petitioners submits that the rigours of Section 37 of the NDPS Act are not attracted in the peculiar facts of the present case. Drawing attention to the FSL report (Annexure P-4), learned counsel contends that the sample weighing 500 grams was found to consist of "*greenish brown vegetative material having flowering/fruiting tops, leaves and seed etc.*" It is argued that under Section 2(iii)(b) of the NDPS Act, 'ganja' has been defined to mean the flowering or fruiting tops of the cannabis plant, excluding the seeds and leaves when not accompanied by such tops. Therefore, according to learned counsel, at this stage it cannot be presumed that the entire recovered material constituted 'ganja' within the meaning of the Act so as to fall in the category of commercial quantity. It is further submitted that the petitioners have remained in custody for more than eleven months and the trial is likely to take considerable time to conclude.

4. *Per contra*, learned State counsel opposes the petitions and submits that the FSL has ultimately opined the recovered substance to be ganja. It is thus contended that the recovery is of commercial quantity and the embargo contained in Section 37 of the NDPS Act would apply. However, learned State counsel is unable to dispute the contents of the FSL report regarding the physical composition of the sample.

5. I have heard learned counsel for the parties and perused the paper-book.

6. A perusal of the FSL report reveals that the sample was found to contain flowering/fruiting tops along with leaves and seeds. Whether the entire recovered material can be treated as ganja within the meaning of Section 2(iii)(b) of the NDPS Act and whether the quantity attributable to the contraband alone would fall within the commercial category are questions, which would require examination during trial on the basis of evidence led by the parties. At this stage, it would not be appropriate for this Court to record any conclusive finding on the said issue.

7. Nevertheless, the aforesaid circumstance assumes significance while considering the prayer for regular bail, particularly when the prosecution seeks to invoke the rigours of Section 37 of the NDPS Act on the premise that the recovery is of commercial quantity. Prima facie, an arguable issue arises as

regards the exact quantity of contraband falling within the statutory definition of ganja and, therefore, the matter deserves consideration from the standpoint of bail.

8. Another relevant factor is that investigation has already been completed and the challan stands presented. Consequently, custodial interrogation of the petitioners is no longer required. The petitioners have remained in custody for more than eleven months. There is nothing on record to suggest that the trial is likely to conclude in the near future. Continued incarceration for an indefinite period pending trial would not serve any useful purpose.

9. Though petitioner Raj Kumar is stated to be involved in three other cases under the NDPS Act and petitioner Pawan in one other criminal case, mere involvement in other cases, without anything more, cannot be a ground to deny bail when the present petitions are otherwise found deserving of acceptance on the peculiar facts and circumstances noticed hereinabove.

10. Without expressing any opinion on the merits of the case and considering the nature of the controversy arising from the FSL report, the period of custody already undergone by the petitioners, completion of investigation and the likely delay in conclusion of trial, this Court is of the considered view that the petitioners deserve the concession of regular bail.

11. Consequently, both the petitions are allowed. The petitioners are ordered to be released on regular bail subject to their furnishing requisite bail bonds and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned and subject to the conditions envisaged under Section 480 of the BNSS, 2023.

12. A photocopy of this order be placed on the file of the connected case.

12.06.2026
Vivek

(DEEPAK GUPTA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>