



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

**CRM-M-4688-2026
Date of decision : 07.05.2026**

Rakesh Raikwar

....Petitioner

versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Mohak Arora, Advocate and
Mr. Medini Sinha, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner praying for grant of regular bail in case FIR No.150 dated 05.06.2025, under Section 20 of the NDPS Act, 1985, registered at Police Station Sarai Khawaja, District Faridabad.

2. Succinctly, facts of the case are that on 05.06.2025, police party while on patrolling, was present on Bypass Road, Sector-37, Faridabad, where a secret informer, informed that a person, namely, Rachna would be coming to Sector 37, Faridabad via Delhi Badarpur Boarder in a Swift Dzire taxi bearing registration No. HR 38AG 0890 carrying Ganja Patti and if barricading is laid, she could be arrested along with the contraband. Finding the secret information reliable, barricading was laid. After about 25 minutes, a taxi was seen coming from Badarpur Border side as disclosed. The taxi was stopped and a lady and two males were found sitting in it. The lady was sitting in the back seat along with two plastic bags. One person was also sitting with her. On asking, she disclosed her name as Rachna; second person disclosed his name as Nishant Pal and the driver disclosed his name as Dharmender. They were suspected to be carrying some contraband, hence,

their search was conducted. On conducting search, 27 Kgs 'Ganjapati' was recovered from the plastic bags. They failed to produce any licence regarding the possession of the same. Thus, the FIR was registered and investigation commenced. During investigation, complicity of the petitioner surfaced on the basis of disclosure statement of co-accused and resultantly, he was arrested on 14.08.2025. On completion of investigation, challan was presented. On framing the charges, the trial commenced. The petitioner approached the learned Additional Sessions Judge, Faridabad praying for grant of regular bail. However, after hearing both the sides, the same was declined vide order dated 02.01.2026. Being aggrieved, the petitioner is before this Court by way of filing the present petition praying for grant of bail.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. He has contended that the alleged recovery of 27 kgs of Ganjapati was effected from co-accused, namely, Rachna and Nishant and they were arrested along with the contraband on the basis of the secret information. He has contended that during investigation, they made their first disclosure statement, however, there is no whisper regarding the petitioner and it is on the second disclosure statement of the co-accused, the petitioner has been implicated in the present case. He has contended that the disclosure statement of the co-accused in itself is not even an admissible evidence. To buttress his arguments, learned counsel for the petitioner has contended that the similarly situated co-accused, namely, Ajay, who was also been arrayed as an accused, on the basis of disclosure statement of co-accused, has been granted anticipatory bail by this Court. He has further submitted that the petitioner has no criminal antecedents and thus, false implication of the petitioner is writ large.

He thus, has submitted that the petitioner deserves to be granted regular bail.

4. Learned State counsel, on the other hand, has opposed the submissions made by learned counsel for the petitioner. He has submitted that the contraband recovered from the co-accused is 27 kgs of Ganjapati which is a commercial quantity and thus, the provisions of Section 37 of the NDPS Act are attracted in this case. He has submitted that the complicity of the petitioner surfaced during investigation as he was found to be the supplier of the contraband, recovered from the co-accused. He has submitted that from the Phone Call Records, petitioner was found to be in contact with the co-accused. He has submitted that recovery of Rs.5,000/- as drug money was also effected. He, on instructions, has submitted that the challan has been filed, charges have been framed and out of 25 prosecution witnesses, none has been examined till date. He has endorsed the fact that co-accused has been granted anticipatory by this Court. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the contraband i.e. Ganjapati weighing 27 kgs has been recovered from the co-accused. The complicity of the petitioner surfaced during second disclosure statement of the co-accused. As submitted, similarly situated co-accused has been granted the anticipatory bail by this Court. Custody certificate filed by the State shows that the petitioner has undergone incarceration of 08 months and 23 days as on 06.05.2026. It further reflects that the petitioner has no criminal antecedents. As submitted, out of 25 prosecution witnesses, none has been examined so far.

6. As held by the Hon'ble Supreme Court in **Mohd Muslim @ Hussain Vs. State (NCT of Delhi), 2023 LiveLaw(SC)260**, this Court is of the opinion that the case of the petitioner is covered by the ratio laid down by



the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme Court expressed its views as under:-

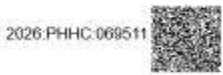
19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.

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21it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.

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23. There is a further danger of the prisoner turning to crime, "as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal"²² (also see Donald Clemmer's 'The Prison Community' published in 1940²³). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.'



7. The veracity of the allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

07.05.2026
m.sharma

(**RAJESH BHARDWAJ**)
JUDGE

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