

2026:PHHC:046941



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M-5438-2026 (O&M)

Parbhat Kusulia ...Petitioner

Versus

State of Haryana ...Respondent

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	24.03.2026
2	The date when the judgment is pronounced	27.03.2026
3	The date when the judgment is uploaded on the website	27.03.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sandeep Kumar Tada, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J.

1. Prayer in this petition, filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner
in FIR No. 44 dated 24.01.2025, registered under Section 20(b)(ii)(c) of the
Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short* ‘NDPS
Act’) [Sections 25, 27 and 29 of the NDPS Act and Section 347(1) of BNS
added later on] at Police Station Kharkhoda, District Sonipat.
2. Brief facts of the case relevant for the disposal of the present
petition are that on 24.01.2025, on the basis of a secret information, co-

2026:PHHC:046941



accused Rakesh @ Jeldar, while sitting in a parked car bearing registration number HR-26-CM-5036, was apprehended by a police party and recovery of 117.57 kgs. of Ganja, which was kept in 57 different sacks in the said car, was effected. The recovered contraband and the said car were taken into possession by the police. Since the accused could not produce any valid license or permit to keep in his possession the recovered contraband, he was formally arrested at the spot. He suffered disclosure statement admitting his involvement in the subject crime and also disclosed that he along with co-accused Ankit and Dharam Singh had procured the recovered contraband from the present petitioner. Co-accused Dharam Singh and Ankit were arrested on 27.01.2025 and 19.03.2025, respectively. The petitioner was also arrested on 28.03.2025. Investigation now stands completed and challan has been filed. The petitioner along with the co-accused is facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that he was neither found at the spot nor was named in the FIR. He has been nominated in this case on the basis of the disclosure statement suffered by the co-accused, which cannot be considered to be admissible in evidence. No subsequent recovery has been effected from him. There is nothing on record to show that the petitioner was involved in the subject crime in any manner with the co-accused. Even otherwise, investigation has since been completed and challan has been filed. Conclusion of trial is likely to take considerable time as only 01 prosecution witness out of total 25 witnesses has been examined so far. His involvement in one more case cannot be made a ground for denying him the benefit of bail in the given circumstances. The petitioner

2026:PHHC:046941



is in custody since long. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be released on regular bail.

4. Status report along with the custody certificate of the petitioner has been filed by the respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations levelled against the petitioner as well as his criminal antecedents, he is not entitled to get benefit of bail as Section 37 of the NDPS Act would be attracted in this case. It is, thus, argued that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

6. The well settled proposition of law is 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. 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.

7. The case of the prosecution is that the name of the petitioner

2026:PHHC:046941



was disclosed by the abovenamed co-accused, from whom recovery of commercial quantity of the contraband was effected. As per his disclosure statement, he had sourced the contraband from the petitioner. 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. The petitioner was arrested on 28.03.2025. There is nothing on record, at this stage, to connect the petitioner either with the subject crime or to show that he was connected with the co-accused in any manner at the relevant time. Investigation has been completed and challan has been filed. Conclusion of trial would take considerable time as only 01 prosecution witness has been examined out of total 25 witnesses so far. Pendency of one more case against the petitioner cannot be considered to be a ground for denying him benefit of bail in the given circumstances. Keeping in view the aforesaid facts and circumstances, this Court is of the considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal bonds and surety bonds by two sureties to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case.

2026:PHHC:046941



8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

27.03.2026
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No