



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

239

CRM-M-9999-2026
Date of Decision: 12.03.2026

Pawan Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Mr. S.S.Sahu, Advocate
for the petitioner.

Ms. Shaveta Sanghi, DAG, Haryana.

RUPINDERJIT CHAHAL, J (ORAL)

1. Prayer in the instant petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is for grant of regular bail to the petitioner in case FIR No.198 dated 16.08.2025 registered under Sections 17(C), 27(A), 29, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Ding, District Sirsa.
2. Brief facts of the present case are that as per the prosecution, on 16.08.2025, ASI Sumit Kumar, along with his fellow police officials was on patrolling duty and on the basis of secret information, apprehended two persons, namely, Sumit Kumar and Rajesh Kumar and upon checking their car, 2 Kg. 696 grams opium was recovered. Hence, the present FIR.
3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and he has no concern with the said offence. He argues that neither the petitioner was present at the spot nor was named in the FIR. It has also been contended that the petitioner was



nominated as an accused on the basis of disclosure statement made by co-accused that it was the petitioner who received ₹10 Lakhs in cash at Delhi in a Hawala office after matching a token note. Apart from the disclosure statement, there is no other evidence to connect the petitioner with the offence in question and it is a trite law that disclosure statement of co-accused during his custodial interrogation is not admissible. He submits that section 27-A NDPS Act has been mechanically invoked. He argues that as per the prosecution, recovery has already been effected from the co-accused and nothing more is to be recovered from him. The petitioner is in custody since 30.08.2025. The investigation in the present case is complete and challan has been filed, however charges are yet to be framed. He further submits that trial will take a long time to conclude and no useful purpose would be served by keeping him behind bars. Therefore, it is urged that the petition deserves to be allowed.

4. On the other hand, learned State counsel has filed the status report in the matter, which is taken on record and relying upon the same, she has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature. She further submitted that the petitioner is not a mere bystander but is an active financier and integral conspirator of the narcotic trafficking network. During investigation, it has been revealed that the petitioner arranged and facilitated the hawala transactions amounting to ₹10 Lakhs which was specifically meant for procurement of the recovered contraband i.e. 2 Kg. 696 grams of opium. She further submitted that the petitioner was the office-bearer of Hawala transactions based at Chandni Chowk, Delhi. The petitioner had received ₹10 Lakhs from co-accused Sunil Kumar @ Bachi and provided him ₹1 currency



note as token for the transaction. She submitted that the same currency note was later recovered from co-accused Sunil @ Bachi. She further submitted that the mobile phone recovered from the petitioner contains incriminating communications relating to coordination of illegal transactions and movement of drugs proceeds. Thus, the petitioner acted as the financial facilitator as the link between suppliers and carriers of contraband, and thus, his role clearly attracts offences under section 27-A and 29 of NDPS Act. She thus argued that the role attributed to the petitioner is grave, specific and supported by material evidence collected during the investigation and prayed that the present petition lacks merit and be dismissed.

5. I have heard learned counsel for the parties and have gone through the record of the case with their able assistance.

6. The allegations in the present case pertain to recovery of 2 Kg. 696 grams of opium, which falls within the ambit of commercial quantity. Although the petitioner was not apprehended at the spot, the material collected during the course of investigation prima facie indicates his active involvement in the alleged offence. As per the status report filed by the State, the petitioner is not a mere bystander but is alleged to be an active financier and integral conspirator in the narcotic trafficking network. The investigation reveals that the petitioner arranged and facilitated hawala transactions amounting to ₹10 Lakhs, which were specifically meant for the procurement of the recovered contraband. It has further been alleged that the petitioner was functioning as an office-bearer involved in hawala transactions operating from Chandni Chowk, Delhi. As per the prosecution, the petitioner had received the said amount of ₹10 Lakhs from co-accused Sunil Kumar @ Bachi and provided him with a ₹1 currency note as a token for the transaction, which was later



recovered from the said co-accused, thereby establishing a link between the petitioner and the other accused persons involved in the illicit transaction. The prosecution has further pointed out that the mobile phone recovered from the petitioner allegedly contains incriminating communications relating to the coordination of illegal financial transactions and movement of proceeds arising out of narcotic trafficking. In these circumstances, the role attributed to the petitioner is that of a financial facilitator acting as a link between the suppliers and carriers of the contraband, thereby attracting the provisions of Sections 27-A and 29 of the NDPS Act. At this stage, this Court cannot lose sight of the fact that the alleged recovery falls within the ambit of commercial quantity, and therefore the rigours of Section 37 of the NDPS Act would apply. The material placed on record by the prosecution prima facie suggests the involvement of the petitioner in financing and facilitating the transaction relating to the contraband in question. The role attributed to the petitioner appears to be part of a larger conspiracy relating to narcotic trafficking and cannot be brushed aside merely on the ground that the petitioner was not present at the spot at the time of recovery.

7. It is well settled that while considering a petition for regular bail in cases involving commercial quantity of contraband, the Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. In the present case, in view of the material collected during the investigation indicating the petitioner's role in facilitating the hawala transaction for the procurement of the contraband, this Court is not satisfied that the twin conditions as envisaged under Section 37 of the NDPS Act are fulfilled. Reliance in this regard can be placed upon the decision of Hon'ble



Supreme Court in *State of Kerala v. Rajesh, 2020 AIR (SC) 721*; wherein it was held that liberal approach in matter of bail under NDPS act is uncalled for. It was also held that if either of twin conditions under Section 37 NDPS Act is not satisfied, ban for granting bail operates. The relevant part of the decision of Hon'ble Apex Court is as under:

"18. The jurisdiction of the Court to grant bail is circumscribed by the provisions of Section 37 of the NDPS Act. It can be granted in case there are reasonable grounds for believing that accused is not guilty of such offence, and that he is not likely to commit any offence while on bail. It is the mandate of the legislature which is required to be followed. At this juncture, a reference to Section 37 of the Act is apposite. That provision makes the offences under the Act cognizable and non-bailable. It reads thus:-

"37. Offences to be cognizable and non-bailable.-(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),-

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless-

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.



(2) The limitations on granting of bail specified in clause (b) of subsection (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974), or any other law for the time being in force on granting of bail."

(emphasis supplied)

*19. This Court has laid down broad parameters to be followed while considering the application for bail moved by the accused involved in offences under NDPS Act. In **Union of India v. Ram Samujh and Ors. 1999(4) RCR (Criminal) 93 : 1999(9) SCC 429**, it has been elaborated as under:-*

*"7. It is to be borne in mind that the aforesaid legislative mandate is required to be adhered to and followed. It should be borne in mind that in a murder case, the accused commits murder of one or two persons, while those persons who are dealing in narcotic drugs are instrumental in causing death or in inflicting death-blow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely. Reason may be large stake and illegal profit involved. This Court, dealing with the contention with regard to punishment under the NDPS Act, has succinctly observed about the adverse effect of such activities in **Durand Didier v. Chief Secy., Union Territory of Goa [1989(2) RCR (Criminal) 505 : (1990) 1 SCC 95]** as under:*

24. With deep concern, we may point out that the organised activities of the underworld and the clandestine smuggling of



narcotic drugs and psychotropic substances into this country and illegal trafficking in such drugs and substances have led to drug addiction among a sizeable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and alarming proportions in the recent years. Therefore, in order to effectively control and eradicate this proliferating and booming devastating menace, causing deleterious effects and deadly impact on the society as a whole, Parliament in its wisdom, has made effective provisions by introducing this Act 81 of 1985 specifying mandatory minimum imprisonment and fine.

8. To check the menace of dangerous drugs flooding the market, Parliament has provided that the person accused of offences under the NDPS Act should not be released on bail during trial unless the mandatory conditions provided in Section 37, namely,

(i) there are reasonable grounds for believing that the accused is not guilty of such offence; and

(ii) that he is not likely to commit any offence while on bail are satisfied. The High Court has not given any justifiable reason for not abiding by the aforesaid mandate while ordering the release of the respondent-accused on bail. Instead of attempting to take a holistic view of the harmful socio-economic consequences and health hazards which would accompany trafficking illegally in dangerous drugs, the court should implement the law in the spirit with which Parliament, after due deliberation, has amended."

20. The scheme of Section 37 reveals that the exercise of power to grant bail is not only subject to the limitations contained under



Section 439 of the CrPC, but is also subject to the limitation placed by Section 37 which commences with non-obstante clause. The operative part of the said section is in the negative form prescribing the enlargement of bail to any person accused of commission of an offence under the Act, unless twin conditions are satisfied. The first condition is that the prosecution must be given an opportunity to oppose the application; and the second, is that the Court must be satisfied that there are reasonable grounds for believing that he is not guilty of such offence. If either of these two conditions is not satisfied, the ban for granting bail operates.”

8. Considering the seriousness of the allegations, the nature of the offence, and the prima facie material available on record linking the petitioner with the narcotic trafficking network, this Court does not find it to be a fit case for grant of regular bail to the petitioner at this stage. Consequently, the present petition is dismissed.

9. However, nothing observed herein shall be construed as an expression of opinion on the merits of the case during trial.

12.03.2026
Puneet....

(RUPINDERJIT CHAHAL)
JUDGE

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