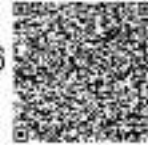


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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-14918-2026

Date of decision: 28th April, 2026

Gautam

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sudhir Rana, Advocate for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 317 dated 27.09.2024 registered under Sections 22(C) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, '*NDPS Act*') at Police Station Bawal, District Rewari.

2. As per the allegations, on 27.09.2024, on receipt of a secret information to the effect that the accused Devdutt was involved in sale of intoxicating substances and on that day also, he was going on an activa vehicle towards Delhi-Jaipur Road Naichana cut to deliver the intoxicating substance and could be apprehended, a raiding party was formed which reached at the

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spot and apprehended the accused Devdutt. On conducting search, 480 capsules of narcotic drugs were recovered from his conscious possession which weighed to be 276 grams, 04 milligrams. The recovered contraband was taken into possession. Accused Devdutt was formally arrested. On interrogation, he suffered disclosure statement to the effect that the recovered contraband had been supplied to him by the present petitioner. The petitioner was nominated as an additional accused and was arrested on 09.09.2025. Investigation now stands concluded.

3. 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 the co-accused which cannot be considered to be admissible in evidence. No recovery has been effected from him. He is in custody since long. The trial will take considerable time to conclude. No useful purpose would be served by detaining him in custody anymore. His involvement in other cases cannot be considered to be a reason for denying benefit of bail to him. It is, therefore, argued that the petition deserves to be allowed.

4. *Per contra*, learned State counsel while relying upon the status report has argued that the petitioner used to supply the intoxicating capsules to the co-accused. He is a habitual offender. There are chances of his absconding or committing similar offences, if extended benefit of bail. Therefore, it is stressed that the petition does not deserve to be allowed.

5. This Court has heard the rival submissions made by learned counsel for the parties at considerable length.

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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 was disclosed by the co-accused Devdutt, from whom recovery of commercial quantity of contraband has been effected. 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

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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 09.09.2025. Challan has been presented but even charges have not been framed. 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 preventive and the deprivation of liberty has been considered as a punishment. As per the discussion made above, this Court is of the considered opinion that a case for release of the petitioner is made out. Accordingly, the petition is allowed and the 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.

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- (v) the petitioner shall upon his release give his mobile phone number to concerned IO/SHO and shall keep his mobile phone switch on all times.
8. 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.
9. 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.
10. Since the main petition has been disposed of, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

28th April, 2026
Parveen Sharma

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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |