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**(215) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-14932-2026
Date of Decision: 26.05.2026****AJAY KUMAR ALIAS GOLU****... Petitioner****Versus****STATE OF PUNJAB****...Respondent****CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Mohd. Yousaf, Advocate for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in this 2nd petition under Section 483 BNSS is for the grant of regular bail in case bearing FIR No.188 dated 11.10.2024 registered under Sections 21(b), 29 of NDPS Act at Police Station Division No.5, Ludhiana, District Ludhiana.

2. The brief facts of the case are that Ajay Kumar @ Golu (petitioner) and Utkarsh @ Abhi (granted bail vide order dated 12.03.2025 (Annexure P-1) were apprehended with 150 grams and 120 grams of heroin each thereby making a total of 270 grams of heroin.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There is a violation of the mandatory provisions of the NDPS Act regarding search and seizure including Section 42 and Section 50. As the petitioner is in custody since 11.10.2024 but only 03 of the 12 prosecution witnesses have been examined



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so far, the Trial of the present case is not likely to be concluded anytime soon and therefore, he is entitled to the concession of bail, moreso, when a co-accused/Utkarsh @ Abhi has been granted the concession of bail vide order dated 12.03.2025.

4. On the other hand, the learned State counsel contends that the petitioner is a habitual offender. He is an accused in one other case under the NDPS Act. The instant petition is the 2nd bail application of the petitioner, the earlier one having been withdrawn on 15.10.2025 (Annexure P-7). Therefore, keeping in view the antecedents of the petitioner, he is not entitled to the concession of bail, moreso in view of the bar contained in Section 37 of the NDPS Act.

5. I have heard the learned counsel for the parties.

6. This is the 2nd bail application on behalf of the petitioner. The details of his earlier bail applications is as under:-

Sr. No.	Bail Application	Date of Decision
1.	CRM-M-20133-2025	Dismissed as withdrawn on 15.10.2025

7. The details of one other FIR registered against the petitioner are as under:-

Sr. No.	FIR Nos. and date	Sections	Police Station	Status
1.	FIR No.67/2022	21/29/61/85 NDPS Act	P.S. Harike	Under Trial

8. Apparently, the petitioner is a habitual offender with one other case registered against him under the NDPS Act. No change in circumstances



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whatsoever have been pointed out by the counsel for the petitioner after the last bail application of the petitioner came to be argued and withdrawn on 15.10.2025 (Annexure P-7).

9. This Court in the case of **Soni Singh @ Chamkaur Singh Versus State of Punjab, CRM-M-31645-2022, decided on 20.10.2022**, held as under:-

“Admittedly, the petitioner in the present case is named in the disclosure statement of the arrested accused. Subsequently thereto 3Kgs of Poppy Husk was recovered at his instance which is a non commercial quantity. It may be relevant to mention here that limitations to the grant of bail under Section 37 of the NDPS Act are in addition to those prescribed under Cr.PC or any other law inforce on the grant of bail as has been set out by the Hon'ble Supreme Court in Satpal Singh Vs. State of Punjab 2018(5) RCR (Criminal) 152. In the present case, the petitioner is involved in two other cases under the NDPS Act. Thus, as he is a habitual offender, he is not entitled to the grant of bail even under Section 439 Cr.PC keeping in view his antecedents. Even otherwise, assuming that the rigors of Section 37 of the NDPS Act did not apply to the petitioner, that by itself would not ipso facto lead to the grant of bail to the petitioner.

In view of the above discussion, I find no merit in the present petition and the same is therefore dismissed.”

10. The Hon'ble Supreme Court in **Union of India versus Vigin K. Varghese 2025 INSC 1316**, held as under:-

16. Further, while granting bail, the High Court recorded that there were no antecedents against the applicant. The material before this Court includes the Union's assertion that the

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respondent had already been apprehended in connection with an earlier seizure of approximately 198.1 kilograms of Methamphetamine and 9.035 kilograms of Cocaine allegedly imported through the same channel only days before the present seizure. That assertion is neither noticed nor answered in the impugned orders.

17. The High Court then, on the strength of those premises, recorded a finding that there exist reasonable grounds to believe that the applicant is not guilty of the alleged offence, treating prolonged incarceration and likely delay as the justification for bail. Such a finding is not a casual observation. It is the statutory threshold under Section 37(1)(b)(ii) which would disentitle the discretionary relief and grant of bail must necessarily rest on careful appraisal of the material available. A conclusion of this nature, if returned without addressing the prosecution's assertions of operative control and antecedent involvement, risks trenching upon appreciation of evidence which would be in the domain of trial court at first instance.

18. This Court ordinarily shows deference to the discretion exercised by the High Court while considering the grant of bail. However, offences involving commercial quantity of narcotic drugs stand on a distinct statutory footing. Section 37 enacts a specific embargo on the grant of bail and obligates the Court to record satisfaction on the twin requirements noticed above, in addition to the ordinary tests under the Code of Criminal Procedure.

19. In the present case, the High Court has not undertaken the analysis of those twin requirements with reference to the material placed by the prosecution. The orders dated 22.01.2025 and 12.03.2025 do not advert to the allegation regarding the

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respondent's prior involvement in a seizure of narcotic drugs and psychotropic substances only days prior to the seizure forming the subject matter of the present complaint, nor do they engage with the prosecution's assertion as to the respondent's role in arranging, importing, clearing and supervising the consignments. The omission to consider these factors bears directly upon the statutory satisfaction required by Section 37(1) (b).

20. We are of the view that, in the facts of this case, it would not be appropriate for this Court at the threshold stage itself to render findings on whether there are or not reasonable grounds, for believing that the respondent is not guilty, or on whether he is likely to commit any offence while on bail. That factual assessment, which the statute requires to be made and recorded with reasons, is one that the High Court must undertake upon a complete and fair appraisal of the rival contentions based on materials placed before it.

21. In our considered view, the interests of justice would be met if the impugned orders are set aside and the matter is remitted to the High Court for fresh consideration of the respondent's prayer for bail, keeping in view the parameters of Section 37 of the NDPS Act, the nature and quantity of contraband alleged to have been seized including 50.232 kilograms of Cocaine on 06.10.2022 and 07.10.2022, the role attributed to the respondent in the said import, the allegation of his involvement in an earlier seizure of 198.1 kilograms of methamphetamine and 9.035 kilograms of cocaine in early October 2022, the period of custody undergone since October 2022, and the stage of trial before the Special Court.



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11. Keeping in view the allegations levelled against the petitioner as well as his antecedents, the satisfaction under Section 37 of the NDPS Act that he has not committed an offence and is not likely to commit one in the future cannot be recorded.

12. In view of the above discussion, I do not deem it appropriate to grant him the concession of bail and therefore, the present petition stands dismissed.

13. The pending application(s), if any, shall stand disposed of accordingly.

(JASJIT SINGH BEDI)
JUDGE

26.05.2026
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Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No