



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

264

CRM-M-14981-2026

Date of Decision: 27.04.2026

JAKIR HUSSAIN @ZAKIR HUSSAIN

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

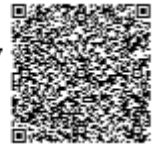
Present: Mr. Rahul Bhargava, Advocate for the petitioner.

Mr. Surender Singh Pannu, Addl. A.G., Haryana.

SUBHAS MEHLA, J. (ORAL)

1. By way of the present petition filed under Section 483 BNSS, 2023 the petitioner is seeking regular bail in case FIR No.274 dated 19.07.2023 registered under Section 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Offences under Section 29 of NDPS Act and Sections 201, 216 of IPC, 1860 added later, at Police Station, Bilaspur, Gurugram, Haryana.

2. Learned counsel for the petitioner contended that the petitioner has been falsely implicated in the present case; the petitioner has been nominated in the present case on the basis of disclosure statement made by co-accused, Sabbir Khan, which is inadmissible in evidence; except the disclosure statement, there is no other evidence available on record against the petitioner; nothing has been recovered from the petitioner; co-accused, namely, Sabbir Khan has already been granted the concession of regular bail by the Co-ordinate Bench of this Court vide order dated 24.02.2026 passed

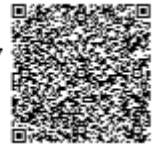


in ***CRM-M No.50690 of 2025*** (Annexure P-2). As such, learned counsel prayed for grant of regular bail to the petitioner.

3. Learned State counsel has filed additional status report by way of an affidavit of Sh. Kuldeep Kumar, HPS, Assistant Commissioner of Police, City, Gurugram, which is taken on record. Learned State counsel opposed the prayer made by the petitioner on the ground that the trial is at the stage of prosecution evidence; out of which only three witnesses have been examined and the petitioner is having one previous criminal antecedents as well. Learned State counsel also contended that the petitioner played an active direct role in the present case as he was the one, who directly planned the present offence and got the same executed by the other co-accused persons which involved procurement and transportation of 359 kg contraband. Learned State counsel also pointed out a financial transaction, which points to a UPI transfer of ₹9,000 made by the petitioner to the co-accused. As such, learned State counsel prays for dismissal of the present petition seeking regular bail to the petitioner.

4. Heard.

5. Present case pertains to the case, wherein commercial quantity of the Ganja has been recovered from one of the co-accused. Therefore, rigours of section 37 of the NDPS Act are attracted which expressly bars granting of bail in cases involving commercial quantity without satisfaction qua twin test specified under the provision. Trial is at the stage of prosecution evidence and only three witnesses have been examined so far. The present petitioner is the kingpin of the offence, who engaged the co-accused to smuggle such a huge consignment of contraband i.e. 359 Kgs of



Ganja in his vehicle, from another state. Status report filed by the state shows that apart from disclosure and confessional statements of co-accused and the present petitioner, there is incriminating material in form of UPI monetary transaction taken place between the petitioner and the co-accused which depicts the active involvement of the petitioner in the execution of the offence.

5.1 So far as, plea raised by the learned counsel for the petitioner on ground of parity with the co accused, is concerned, the same is not sustainable as role of the present petitioner is of different footing to that of the co-accused. Moreover, co-accused who has been granted bail, was having clean antecedents unlike the case of present petitioner. Hon'ble the Supreme Court in "**Sagar versus State of UP & Anr. 2025 INSC 1370**" held that parity alone cannot be the sole ground for granting bail. Parity requires an examination of the role of the accused, their position, and their involvement in the crime. The grant of bail must also consider other factors, such as the gravity of the offence, the accused's criminal antecedents. And parity is not a matter of right to claim concession of bail. It was observed as under:

"11. ...This Court observed that while utilizing parity as a ground for bail, the same must focus on the role of the accused and cannot be utilized solely because another accused person was granted bail in connection with the same offence, and neither can this ground be claimed as a matter of right. [See also: *Tarun Kumar v. Assistant Director Directorate of Enforcement, 2023 SCC Online SC 1486*; *Sabita Paul v. State of West Bengal and Anr., 2024 SCC Online SC 374*]"

5.2 This Court cannot be unmindful of the disturbing escalation of narcotic offences across the country and the deep inroads the drug trade has



made into the social fabric, particularly affecting the youth. The pervasive nature of this menace, operating through organized networks and trans-regional channels, poses a serious threat to public health, law and order, and societal stability. *Raison d’etre* of bar under section 37 of the NDPS is a conscious response to this grave societal threat, mandating a departure from ordinary principles governing bail.

6. Ergo, keeping in view the above peculiar facts and circumstances of the present case, this Court finds no merit in the present petition and the same stands dismissed accordingly.

7. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

8. Pending miscellaneous application(s), if any, also stand(s) disposed of.

(SUBHAS MEHLA)
JUDGE

April 27, 2026
Nisha-1

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