

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:072488



221

CRM-M-15272-2026 (O&M)
Date of decision:08.05.2026

Davinder Singh @ Devender Menariya

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Parneet Kaur, Advocate for

Mr. A.K. Khunger, Advocate for the petitioner.

Mr. Vivek Sharma, AAG, Punjab.

...

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.109 dated 06.08.2025 registered under Sections 15(c) of the NDPS Act (offences under Sections 27 and 29 of the NDPS Act were added subsequently) at Police Station Bahav Wala, District Fazilka.

2. As per the allegations, on 06.08.2025, a canter vehicle bearing registration No. PB-13-BR-3723 was stopped at the barrier pass Rajpura during routine checking. The driver of the vehicle got perplexed. On asking, he disclosed his name as Harbans Singh @ Happy. On the basis of suspicion, a checking was conducted and 51 kgs and 406 grams of poppy

husk was recovered from the vehicle which was taken into possession by the police along with vehicle. The above named accused was formally arrested and his dope test was conducted, which was found to be positive. He was interrogated and disclosed that the recovered drugs belonged to accused Kundan Mal Menariya and the present petitioner and they had kept the contraband in his vehicle and he was bringing the same to Punjab. Both the above named persons were nominated as accused. Offence under Section 29 of the NDPS Act was added. Petitioner was arrested on 08.02.2026. It was revealed that on 09.07.2025, he had transferred an amount of Rs.15,000/- in the bank account of Mangal Singh, maternal uncle of accused Harbans Singh @ Happy through Gpay for the purpose of bringing contraband to Abohar. This entry matched with the entries in the bank account statement of Mangal Singh. Investigation now stands completed

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 legally admissible in evidence. He was not named in the FIR. No recovery has been effected from him. He is in custody since long. Similarly situated co-accused Kundal Mal Menariya has been extended benefit of bail. On parity, he too deserves to be extended the same benefit. It is, therefore, argued that the petition deserves to be allowed.

4. Per contra, learned State counsel has argued that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be released on 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.

6. The petitioner is alleged to have been involved in the business of sale of poppy husk and as per the allegations, it was the contraband provided by him that was being carried in the vehicle from where it was recovered. He is in custody since 08.02.2026. He was not named in the FIR. He was nominated on the basis of disclosure statement of the co-accused. There has been no transaction of money between the petitioner and co-accused. The transfer of money in favour of Mangal Singh was qua purchase of drugs has to be tested during the course of trial on the basis of evidence and not at this stage. The rigors of Section 37 of NDPS Act are not attracted against him. 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 Harbans Singh @ Happy, from whom recovery of 51 kgs and 406 grams of poppy husk has been 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. In view of the above discussion, this 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 08.02.2026. Challan has not been presented and charges have also 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.

(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 as been allowed, pending application, if any, is rendered infructuous.

08.05.2026

harjeet

**(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No