

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:056140



227

CRM-M-18480-2026 (O&M)
Date of decision:10.04.2026

Rakesh Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amit Sharma, Advocate for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. The instant petition has been moved by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”) for grant of regular bail in case arising out of FIR No.15, dated 19.01.2025, registered under Section 21 of the NDPS Act (offences under Sections 27 and 29 of the NDPS Act were added lateron), at Police Station Civil Lines, District Patiala.

2. As per the allegations, on 19.01.2025, accused Omkar Singh was apprehended on the basis of a secret information and recovery of 3 kgs and 500 grams of smack alongwith cash amount of Rs.6.5 lakhs was effected from his conscious possession. He suffered disclosure statement, on the basis of which the petitioner was nominated as an additional

accused. The petitioner was arrested on 21.11.2025. On his disclosure statement, accused Ravi Kaushal @ Monu was nominated as additional accused. 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 admissible in evidence. No recovery has been effected from him. There is no material on record to connect him with the subject offences. The trial will take considerable time to conclude. No useful purpose would be served by keeping him in custody any more. It is, therefore, argued that the petition deserves to be allowed.

4. Notice of motion.

5. Learned State counsel has advance notice of the petition and is ready to argue the matter. It has been argued that the petitioner in connivance with the co-accused had indulged in drug menace and had been actively participating in sale of smack to the persons and earn money. The allegations against him are serious in nature. He is a habitual offender being convicted in two more cases of similar nature and is involved in another case as well. There are chances of his committing similar offences or absconding, if extended benefit of bail. It is, therefore, argued that the petition does not deserve to be allowed.

6. This Court has considered the rival submissions.

7. 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 NDPS Act.

8. The petitioner is alleged to have been involved in the business of sale/supply of contraband. The case of the prosecution is that he was nominated on the basis of disclosure statement of Onkar Singh, 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. The petitioner is in custody since 21.11.2025. Challan has been presented. The trial will take time. 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 trial Court.

(v) He shall upon his release give details of his mobile phone number(s) to the learned trial Court at the time of furnishing of bonds and shall keep his mobile phone switch on all times.

9. 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.

10. 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.

10.04.2026

(MANISHA BATRA)
JUDGE

harjeet

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