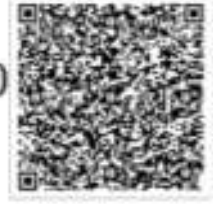


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**(227) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-29037-2026 (O & M)

Date of Decision: 26.05.2026

Balbir Singh @ Kulbir Singh

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. L.S. Sekhon, Advocate, for the petitioner.

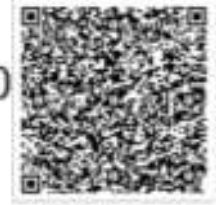
Ms. Geeta Rani, AAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in this third petition under Section 439 Cr.P.C. (Section 483 BNSS, 2023) is for the grant of regular bail in case bearing FIR No.109 dated 22.05.2025 under Sections 21-B, 27-A and 31 of the NDPS Act, 1985 registered at Police Station Sadar Tohana, District Fatehabad.

2. The brief facts of the case are that the petitioner-Balbir Singh @ Kulbir Singh was apprehended with 90 grams of heroin. He suffered a disclosure statement that he had purchased the same from co-accused/Karamjeet Kaur.

3. The learned counsel for the petitioner contends that a non-commercial quantity of contraband came to be recovered from the petitioner. 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 22.05.2025 but only 01 of 17 prosecution witnesses has been

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examined 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.

4. On the other hand, the learned State counsel contends that the petitioner is a habitual offender being a convict in one other case bearing FIR No.59 dated 06.06.2013 under Sections 15, 25 of the NDPS Act, Police Station Boha, District Mansa. Therefore, keeping in view the antecedents of the petitioner, he is not entitled to the concession of bail. Even otherwise, there are no change in circumstances warranting grant of bail when the IInd bail application of the petitioner came to be dismissed for non-prosecution vide order dated 28.01.2026 (Annexure P-8)

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

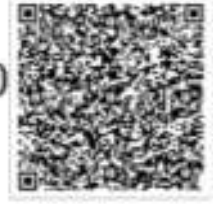
6. The details of other FIR(s) registered against the petitioner are as under:-

Sr. No.	FIR Nos. and date	Sections	Police Station	Status
1.	FIR No.59 dt. 06.06.2013	15, 25 of the NDPS Act	P.S. Boha, District Mansa	Convicted

7. Apparently, the petitioner is a habitual offender being a convict in 01 other case registered against him under the NDPS Act.

8. 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



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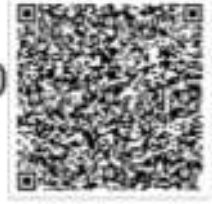
mention here that limitations to the grant of bail under Section 37 of the NDPS Act are in addition to those prescribed under Cr.PC or any other law in force on the grant of bail as has been set out by the Hon'ble Supreme Court in Satpal Singh Vs. State of Punjab 2018(5) RCR (Criminal) 152. In the present 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.”

9. 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 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



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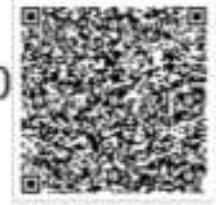
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threshold under Section 37(1)(b)(ii) which would disentitle the discretionary relief and grant of bail must necessarily rest on careful appraisal of the material available. A conclusion of this nature, if returned without addressing the prosecution's 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 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



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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.

10. Keeping in view the allegations levelled against the petitioner as well as his antecedents and the fact that Section 27-A of the NDPS Act has also been invoked, 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.

11. Further, this is the 3rd bail application on behalf of the petitioner. The detail of his earlier bail applications are as under:-

Sr. No.	Bail Application	Date of Decision
1.	CRM-M-51153-2025	Dismissed as withdrawn on 17.09.2025
2.	CRM-M-3328-2026	Dismissed on merits on 28.01.2026

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The present bail application has been preferred without any change in material circumstances warranting grant of bail.

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

sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No