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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-52141-2025

Date of decision: 13th January, 2026

Balwant Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Keshav Pratap Singh, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

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. 124 dated 01.06.2023 registered under Sections 15(c) and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') at Police Station Ding, District Sirsa.

2. As per the allegations, on 01.06.2023, recovery of 60 kgs of poppy husk/straw was effected from the car occupied by accused Gagan @ Sonu and Vinod Kumar @ Bablu. They were arrested. They suffered disclosure statements to the effect that they along with the co-accused Gagan were engaged in the business of sale/purchase of poppy husk. Accused Ramesh was nominated as such. He was arrested on 03.10.2023. He suffered

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disclosure statement on the basis of which, the accused Rohit @ Lala, Sandeep and Harish Kumar were nominated as accused. Accused Harish was arrested on 22.05.2024. He suffered disclosure statement on interrogation stating that he had purchased 60 kgs of doda post from the co-accused Vinod and Gagan and had hidden the same in his rented house. He also disclosed that the petitioner, who is his father, had a share in the contraband and had arranged its purchase. The petitioner was arrested on 17.06.2025. Investigation now stands completed and he along with the co-accused is facing trial for commission of aforementioned offences.

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 co-accused Harish which cannot be considered to be admissible in evidence. He is in custody since 17.06.2025. The trial will take considerable time to conclude. The rigors of Section 37 of NDPS Act are not attracted against him. He has clean antecedents. It is, therefore, urged that he deserves to be released on bail.

4. Status report as well as custody certificate have been filed by respondent-State. It is argued by learned State counsel that there are serious allegations against the petitioner who is a habitual offender since two more cases under the provisions of NDPS Act are pending against him. There are chances of his absconding or committing similar offences, if extended benefit of bail. He was supplier of the contraband to the co-accused. Trial may be expedited. Therefore, it is stressed that the petition does not deserve to be

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allowed.

5. This Court has heard learned counsel for the parties at considerable length.

6. The petitioner is alleged to have supplied 60 kgs of doda post to the co-accused. He was not named in the FIR. He was nominated on the basis of disclosure statement of the co-accused. His involvement in other cases cannot be considered to be a reason for denying benefit of bail to him. 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

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disclosed by the co-accused Harish Kumar @ Rishu. 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 17.06.2025. Challan has been presented but even charges have 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

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- 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 has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

13th January, 2026
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |