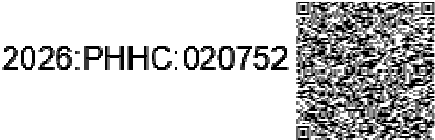


CRM-M-54358-2025 and 03 other connected cases



119 (4 cases)
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. CRM-M-54358-2025
Aashish Verma
.....Petitioner
versus

Union of India though Narcotics Control Bureau, Amritsar Zonal Unit,
Amritsar
.....Respondent

2. CRM-M-2983-2026
Varun Kumar
.....Petitioner
versus

Union of India, Narcotics Control Bureau, Amritsar
.....Respondent

3. CRM-M-1520-2026
Dinesh
.....Petitioner
versus

Union of India through Narcotics Control Bureau, Amritsar
.....Respondent

4. CRM-M-65090-2025
Biram Ram Pooniya @ Veeru
.....Petitioner
versus

Union of India
.....Respondent

Date of Decision: February 11, 2026
Date of Uploading: February 12, 2026

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. R.S. Cheema, Senior Advocate with
Mr. A.S. Cheema, Advocate and

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Mr. Satish Sharma, Advocate for the petitioner
(in CRM-M-54358-2025).

Mr. Bhupender Singh, Advocate for the petitioner
(in CRM-M-2983-2026).

Mr. D.N. Ganeriwala, Advocate for the petitioner
(in CRM-M-1520-2026).

Mr. A.S. Khosa, Advocate for the petitioner
(in CRM-M-65090-2025).

Mr. Sourabh Goel, Special Public Prosecutor, NCB with
Ms. Anju Bansal, Advocate,
Ms. Geetika Sharma, Advocate,
Ms. Himanshi Gautam, Advocate,
Ms. Sakshi Gautam, Advocate and
Ms. Samriddhi Jain, Advocate for the respondent.

SUMEET GOEL, J. (ORAL)

By way of the present common judgment, this Court proceeds to adjudicate the aforesaid four petitions together in view of the admitted commonality of factual matrix and congruity of legal issues involved therein, as fairly conceded by the learned counsel appearing for the respective parties.

For the sake of convenience & brevity, the facts are extracted from *CRM-M-54358-2025* titled as *Aashish Verma versus Union of India, through Narcotics Control Bureau, Amritsar Zonal Unit, Amritsar*.

2. Present petitions have been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking grant of regular bail to the petitioner(s), in NCB Case No.04 dated 07.02.2025, registered under Sections 8, 22(c), 25, 29 & 60 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Narcotics Control Bureau, Amritsar Zonal Unit, Amritsar.

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3. As per case setup by the Narcotics Control Bureau, the complaint in question involves recovery of commercial quantity of contraband, details, whereof reads thus:

<i>Sr. No.</i>	<i>Date of Seizure</i>	<i>Place of Seizure</i>	<i>Drug seized</i>
1.	07.02.2025	At Peer Baba Dargaah, Thathiya Near Petrol Pump, Jandiala Tarn Taran Road, Amritsar	5,000 tablets of Tramadol Hydrochloride
2.	08/09.02.2025	J R Pharmaceuticals, Plot No. – 27, Sector-7, IIE, Sidcul, Haridwar.	16,860 tablets of Tramadol Hydrochloride
3.	09.02.2025	J R Pharmaceuticals, Plot No. – 27, Sector-7, IIE, Sidcul, Haridwar.	187 bottles of Barcadin (with codeine) 100ml and 140 bottles of CSP (with codeine) 100 ml.
4.	15.02.2025	J R Pharmaceuticals, Plot No. – 27, Sector-7, IIE, Sidcul, Haridwar.	80.720 Kgs of Tramadol Hydrochloride loose tablets
5.	17 to 28.02.2025	J R Pharmaceuticals, Plot No. – 27, Sector-7, IIE, Sidcul, Haridwar.	8,89,064 bottles of Codenie Phosphate Cough Syrup 100ml.
6.	28.03.2025	IKON Pharmachem Pvt. Ltd. Selaqui, Dehradun	240 tablets of Alprazolam and 1560 tablets of Tramadol Hydrochloride
7.	29.03.2025	Shop No. – F27, Transport Nagar, Sewla Kalan, Dehradun, Uttarkhand.	1,24,200 tabelts of Alproazolam
8.	18 to 20.04.2025	J R Pharmaceuticals, Plot No. – 27, Sector-7, IIE, Sidcul, Haridwar.	11,693 Bottles of Codeine Phosphate Cough Syrup and 2.982 Kgs of White Powder of Tramadol (Suspected).
9.	10 to 17.06.2025	IKON Pharmachem Pvt. Ltd., Selaqui, Dehradun	931 packets containing approx. 156,465 bottles of CBCS, approx. 178,9600 tablets of Psychotropic medicine, raw material of 304.94 Kg Tramadol Hcl, 44.47 Kg of Codenie Phosphate, 7.04 Kg Alprazolam and approx 643 Kg raw materials of other psychotropic & narcotics hold in process product
10.	12.08.2025	M/s Digital Vision, 176 Mouza Ogli, Nahan Road, Kala-amb, Sirmour, HP	1,368 capsules of Tramadol + 16 bottles of Codeine Phosphate Cough syrup
11.	09/ 10.11.2025	M/s Vellinton Healthcare, Vill-Rampur Jatan, Trilokpur Road, Kala-amb, Sirmour, HP	50,000 ampoules (2 ml each) 100 mg Tramadol, 5,000 Vials (10 ml each) Midazolam, 12.060 Kg of Tramadol HCL, 0.300 Kg of Midazolam Hydrochloride, 0.980 Kg of Lorazepam, 0.570 Kg of Diazepam, 1.050 Kg of Pentazocine powder
12.	11.10.2025	M/s Digital Vision, 176 Mouza Ogli, Nahan Road, Kala-amb, Sirmour, HP	
13.	12.11.2025 to 16.11.2025	M/s Digital Vision, 176 Mouza Ogli, Nahan Road, Kala-amb,	12 lakhs tablets of NRx/ Psychotropic medicine and 150.62 Kg of NRx/ Psychotropic Raw materials, 23.674 Kg of Dispensed Psychotropic

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		<i>Sirmour, HP</i>	<i>Raw materials, 165.840 Kg of Compressed/coated Psychotropic Tablets, 271.10 Kg Psychotropic Granules Powder Substance and 573.100 Kg of Tramadol HCL Granules (mixture ready for filing in capsules) bulk</i>
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4. Learned senior counsel for the petitioner (in CRM-M-54358-2025) has argued that the petitioner is in custody since 13.05.2025. Learned senior counsel has further submitted that mandatory provisions of the NDPS Act have not been scrupulously complied with, and thus, the prosecution case suffers from inherent defects. Learned senior counsel has iterated that the trial has not progressed with due expedition and the delay thereof cannot be fastened upon the petitioner. Learned senior counsel has iterated that the petitioner is one of the directors of the IKON Pharmachem Private Limited, a duly licensed pharmaceutical entity, situated in Dehradun, authorized to manufacture and distribute drugs and that the Company holds valid license under Schedules C, C(I) and X of the Drugs and Cosmetics Rules, 1945. Learned senior counsel has argued that the said company has not effected any direct sale to individual unauthorized entities lacking requisite licences. Learned senior counsel has argued that Tiwari Medical Agencies, who is a duly registered and authorized dealer/ distributor under the Drug and Cosmetic Rules, 1945, had valid licence from 22.12.2023 to 21.12.2028, in between which, the said distributor had placed purchase order(s) with the IKON company. Learned senior counsel has argued that the entire record of the company duly stands supplied to the investigating officer and even the complaint has already been filed by the NCB on 08.05.2025. Learned senior counsel has argued that the prosecution has erroneously linked “Trekam-100” tablets, allegedly manufactured by JR Pharmaceuticals, with IKON

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Pharmachem, whereas the said batch was never ever manufactured by petitioner's company - IKON Pharmachem. Learned senior counsel has further argued that the petitioner is operating under valid manufacturing licence and that he cannot *ipso facto* be equated with illicit trafficking under the NDPS Act. Learned senior counsel has argued that even assuming certain distributors, including Tiwari Medical Agencies, were allegedly found dealing in counterfeit products, as per prosecution case, the petitioner's Company had duly verified their licences and supporting documents at the time of entering into commercial transaction(s). Learned senior counsel has iterated that no direct recovery is effected from the petitioner and that alleged seizure(s) from third parties cannot, without cogent material, be attributed to the him. On these basis, it is contended that statutory embargo under Section 37 of the NDPS Act is not attracted.

4.1. Learned counsel for the petitioner (in CRM-M-2983-2026), apart from submissions made by learned Senior counsel, as aforesaid, has argued that the petitioner is in custody since 25.05.2025. Learned counsel has argued that the petitioner was not named in the complaint and has only been implicated, in this case, on the basis of disclosure statement of the co-accused, which is not permissible in the eyes of law. Learned counsel has argued that company of the petitioner, namely, Kvati Healthcare Pvt. Ltd. is registered and duly authorized firm having valid legal licence for sale (for distribution) of drugs other than those specified in Schedules C, C(I) and X to the Drugs and Cosmetics Rules, 1945. Learned counsel has argued that the petitioner has not received or sold even a single table to any individual.

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4.2. Learned counsel for the petitioner (in CRM-M-1520-2026), apart from submissions made by learned Senior counsel, as aforesaid, has argued that the petitioner is in custody since 13.06.2025. Learned counsel has iterated that alleged recovery of 5,000 tablets was effected from main accused, namely Aashu Arora, on 07.02.2025. Learned counsel has argued that the petitioner was the proprietor of M/s Rama Medicone and the same is duly licensed firm. Learned counsel has argued that since he suffered loss, as a result of which, he closed his aforesaid shop in December, 2024 and thereafter, there was no dealing of any sort. Learned counsel has argued that the petitioner, neither has any concern with Aashu Arora, from whom alleged contraband was recovered nor have any business or financial dealings with JR Pharmaceuticals or its proprietors.

4.3. Learned counsel for the petitioner (in CRM-M-65090-2025), apart from submissions made by learned Senior counsel, as aforesaid, has argued that the petitioner is in custody since 11.09.2025. Learned counsel has argued that the petitioner was not named in the complaint and he has been implicated, in this case, on the basis of disclosure statement, which is not permissible under law. Learned counsel has argued that the petitioner is merely working as a helper in M/s Shivam Distributor. Learned counsel has iterated that the petitioner has no knowledge about the aforesaid firm allegedly being bogus/ fake.

Apart from above, learned senior counsel and other counsel, in respective cases, have argued that upon culmination of investigation, challan stands presented and total 49 prosecution witnesses have been cited, out of

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which, none has been examined till date. Nothing is to be recovered from the petitioners. The petitioners have suffered substantial incarceration and no useful purpose would be served by keeping the petitioners behind bars. Thus, regular bail is prayed for.

5. *Per contra*, learned counsel for the respondent – NCB has opposed the present petitions by arguing that the allegations raised against the petitioner(s) are serious in nature and, thus, the petitioner(s) do not deserve the concession of the regular bail.

5.1. Learned counsel for the respondent – NCB has argued that the petitioner (Ashish Verma) is the director of IKON Pharmachem Pvt. Ltd., Dehradun and associate of Praful Prakash Sharma. He had supplied the seized Alprazolam Tablets and Tramadol tablets and was involved in diversion of psychotropic medicines as he supplied the said medicine to the non-existence firms. Learned counsel has argued that there are CDR and WahtsApp details etc. to substantiate the guilt of the petitioner.

5.2. Learned counsel for the respondent – NCB has argued that the petitioner (Varun Kumar) has argued that the petitioner is the owner of Kvati Healthcare Pvt. Ltd. and associate of Ajeet Singh of J R Pharmaceuticals and Praful Prakash Sharma and is involved in diversion of psychotropic medicine to non-existence firms.

5.3. Learned counsel for the respondent – NCB has argued that the petitioner (Dinesh) has argued that the petitioner is the owner of Rama Medicose, Mandore, Jodhpur, Rajasthan and is involved in diversion of Tramadol Tablets.

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5.4. Learned counsel for the respondent – NCB has argued that the petitioner (Biram Ram Pooniya @ Veeru) has argued that the petitioner is the owner of M/s Shivam Distributor, Nagaur, Rajasthan, who is also involved in diversion of Tramadol Tablets through this firm.

5.5. Apart from above, learned counsel for the respondent – NCB has argued that huge narcotics contraband has been recovered, in the present case, and the same, being commercial in nature, falls under the provisions of Section 37 of the NDPS Act. Learned counsel has further submitted that petitions in hand are barred by the rigors of Section 37 of the NDPS Act and are, thus, liable to be rejected on this score alone. In case, the petitioner(s) are released on bail, there is all likelihood that they may abscond from the process of justice and also interfere with the prosecution evidence/ witnesses. Learned State counsel seeks to place on record custody certificate(s) dated 08.02.2026, in the Court today, which are taken on record.

6. I have heard counsel for the rival parties and perused the paper-book as also the record produced before me.

7. Before delving further into the merits of the case, it would be apposite to refer herein to the following case-law germane to the matter(s) in issue:

- i) The Hon'ble Supreme Court in the case of ***Union of India versus Namdeo Ashruba Nakade, Special Leave to Appeal (Crl.) No.9792/2025***, has held as under:

“8. This Court is of the view that the issue of substance abuse has emerged as a global public health crisis in the twenty-first century, affecting every country worldwide, as drug trafficking and addiction have become pervasive. The United Nations Office on

Drugs and Crime (UNODC) reported in its 2025 World Drug Report that “As at 2023, some 316 million people worldwide had used drugs in the past year, representing an increase over the past decade that outpaces population growth, which indicates a higher prevalence of drug use.”

9. *In India, there has been a concerning increase in drug abuse among the youth. Substance abuse not only affects individuals, families, and communities but also undermines various aspects of health including physical, social, political, cultural foundations, and mental well-being. (See: “Bhattacharya S, Menon GS, Garg S, Grover A, Saleem SM, Kushwaha P. The lingering menace of drug abuse among the Indian youth – it’s time for action. Indian J Community Med 2025;50:S9-12, published on 17th April, 2025”)*

10. *According to many news reports, India faces a clear dilemma between tackling the narcotics crisis systematically or sacrificing its most valuable resource i.e. its young people. The extent of menace of drug abuse has also been highlighted by this Court in the case of Ankush Vipin Kapoor v. National Investigation Agency, (2025) 5 SCC 155 wherein this Court has observed as under:*

“9.1 The ills of drug abuse seem to be shadowing the length and breadth of our country with the Central and every State Government fighting against the menace of substance abuse. The debilitating impact of drug trade and drug abuse is an immediate and serious concern for India. As the globe grapples with the menace of escalating Substance Use Disorders (“SUD”) and an ever accessible drug market, the consequences leave a generational Page 75 of 84 imprint on public health and even national security. Article 47 of the Constitution makes it a duty of the State to regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health. The State has a responsibility to address the root causes of this predicament and develop effective intervention strategies to ensure that India’s younger population, which is particularly vulnerable to substance abuse, is protected and saved from such menace. This is particularly because substance abuse is linked to social problems and can contribute to child maltreatment, spousal violence, and even property crime in a family.”

11. *In the present case, this Court finds that though the Respondent-accused was in custody for one year four months and charges have not been framed, yet the allegations are serious inasmuch as not only is the recovery much in excess of the commercial quantity but the Respondent-accused allegedly got the cavities ingeniously fabricated below the trailer to conceal the contraband.*

12. *Prima facie this Court is of the opinion that the Respondent-accused is involved in drug trafficking in an organized manner. Consequently, no case for dispensing with mandatory requirement of Section 37 of the NDPS Act is made out in the present matter.*

13. *Moreover, this Court is of the view that as the accused has been charged with offences punishable with ten to twenty years*

rigorous imprisonment, it cannot be said that the Respondent has been incarcerated for an unreasonably long time.”

- ii) Further, the Hon’ble Supreme Court in the case of ***Union of India versus Vigin K. Varghese, Special Leave Petition (Crl.) No(s).7768 of 2025***, has held as under:

“15. At this stage, two features stand out. The High Court’s conclusion that there is no material to show that the applicant had any knowledge of the cocaine in the consignment has been arrived at without discussion of the statements of the respondent and circumstances relied upon by the prosecution, including the assertion that the respondent had placed the orders for import, controlled the logistics chain, coordinated with the overseas supplier, and was present when the consignment was opened. The High Court has not examined whether those circumstances, taken at face value for the limited purpose of bail, could prima facie indicate conscious control or involvement sufficient to attract the presumption of culpable mental state indicated under Section 35 of the NDPS Act.

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 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.”

- iii) This Court in the case of ***Jaswinder Singh alias Kala versus State of Punjab***, passed in ***CRM-M-33729-2025 (2025:PHHC:089161) = 2025 SCC OnLine P&H4537***, after relying upon the *ratio decidendi* of the judgments of the Hon’ble Supreme Court in ***Union of India vs. Thamisharasi & Ors***,

1995(4) SCC 190, Customs, New Delhi vs. Ahmadalieva Nodira, 2004 (3) SCC 549, Union of India vs. Shri Shiv Shanker Kesari, 2007(4) RCR(Criminal) 186, Satpal Singh vs. State of Punjab, 2018 (13) SCC 813, Narcotics Control Bureau vs. Mohit Aggarwal, 2022 LiveLaw (SC) 613, Mohd. Muslim @ Hussain vs. State (NCT of Delhi) 2023 LiveLaw (SC) 260, Narcotics Control Bureau vs. Kashif, 2024 INSC 1045, Usmanbhai Dawoodbhai Memon vs. State of Gujarat, 1988(1) RCR(Criminal) 540, Ranjitsing Brahmajeetsing Sharma vs. State of Maharashtra & Anr. 2005(5) SCC 294, Central Bureau of Investigation vs. Vs. Vijay Sai Reddy, 2013(3) RCR (Criminal) 252, Municipal Corporation of Delhi vs. M/s Jagan Nath Ashok Kumar and another, 1987(4) SCC 497, Gujarat Water Supply and Sewerage Board vs. Unique Erectors (Gujarat) (P) Ltd., and another, 1987(1) SCC 532, Collector and others vs. P. Mangamma and others, 2003(4) SCC 488, Commissioner of Income-tax, Delhi vs. S. Teja Singh, 1958 SCC Online SC 30, Management of Advance Insurance Co. Ltd. Vs. Shri Gurudasmal and others 1970(1) SCC 633, Tinsukhia Electric Supply Co. Ltd. Vs. State of Assam, 1989(3) SCC 709 and Commissioner of Income Tax vs. Hindustan Bulk Carriers, 2003(3) SCC 57; has held, thus:

“14. As a sequitur to above-said rumination, the following postulates emerge:

- (I) (i) A bail plea on merits; in respect of an FIR under NDPS Act of 1985 involving offence(s) under Section 19 or Section 24 or*

Section 27-A thereof and for offence(s) involving commercial quantity; is essentially required to meet with the rigour(s) of Section 37 of NDPS Act.

(ii) The rigour(s) of Section 37 of NDPS Act do not apply to a bail plea(s) on medical ground(s), interim bail on account of any exigency including the reason of demise of a close family relative etc.

(iii) The rigour(s) of Section 37 of NDPS Act pale into oblivion when bail is sought for on account of long incarceration in view of Article 21 of the Constitution of India i.e. where the bail-applicant has suffered long under-trial custody, the trial is procrastinating and folly thereof is not attributable to such bail-applicant.

II. The twin conditions contained in Section 37(1)(b) of NDPS Act are in addition to the conditions/parameters contained in Cr.P.C./BNSS or any other applicable extant law.

III. The twin conditions contained in Section 37(1)(b) of NDPS Act are cumulative in nature and not alternative i.e. both the conditions are required to be satisfied for a bail-plea to be successful.

IV. For consideration by bail Court of the condition stipulated in Section 37(1)(b)(i) of NDPS Act i.e. "there are reasonable grounds for believing that he is not guilty of such offence":

(i) The bail Court ought to sift through all relevant material, including case-dairy, exclusively for the limited purpose of adjudicating such bail plea.

(ii) Such consideration, concerning the assessment of guilt or innocence, should not mirror the same degree of scrutiny required for an acquittal of the accused at the final adjudication & culmination of trial.

(iii) Plea(s) of defence by applicant-accused, if any, including material/documents in support thereof, may be looked into by the bail-Court while adjudicating such bail plea.

V. For consideration of the condition stipulated in Section 37(1)(b)(ii) i.e. 'he is not likely to commit any offence while on bail':

(i) The word 'likely' ought to be interpreted as requiring a demonstrable and substantial probability of re-offending by the bail-applicant, rather than a mere theoretical one, as no Court can predict future conduct of the bail-applicant.

(ii) The entire factual matrix of a given case including the antecedents of the bail-applicant, role ascribed to him, and the nature of offence are required to be delved into. However, the involvement of bail-applicant in another NDPS/other offence cannot ipso facto result in the conclusion of his propensity for committing offence in the future.

(iii) The bail-Court may, at the time of granting bail, impose upon the applicant-accused a condition that he would submit, at such

regular time period/interval as may stipulated by the Court granting bail, an affidavit before concerned Special Judge of NDPS Court/Illaqa (Jurisdictional) Judicial Magistrate/concerned Police Station, to the effect that he has not been involved in commission of any offence after being released on bail. In the facts of a given case, imposition of such condition may be considered to be sufficient for satisfaction of condition enumerated in Section 37(1)(b)(ii).

VI. *There is no gainsaying that the nature, mode and extent of exercise of power by a Court; while satisfying itself regarding the conditions stipulated in Section 37 of NDPS Act; shall depend upon the judicial discretion exercised by such Court in the facts and circumstances of a given case. No exhaustive guidelines can possibly be laid down as to what would constitute parameters for satisfaction of requirement under Section 37 (ibid) as every case has its own unique facts/circumstances. Making such an attempt is nothing but a utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such matter.”*

8. The grant of bail falls within the discretionary domain of the court; however, such discretion must be exercised in a judicious and principled manner, ensuring it aligns with established legal precedents and the interests of justice. While considering a bail application, the Court must evaluate factors such as the existence of *prima facie* evidence implicating the accused, the nature and gravity of the alleged offence, and the severity of the likely sentence upon conviction. The Court must also assess the likelihood of the accused absconding or evading the due process of law, the probability of the offence being repeated and any reasonable apprehension of the accused tampering with evidence or influencing witnesses. Additionally, the character, antecedents, financial means, societal standing and overall conduct of the accused play a crucial role. Furthermore, the Court must weigh the potential danger of bail undermining the administration of justice or thwarting its due course. A profitable reference in this regard is made to the judgment passed by the Hon’ble Supreme Court titled as ***State through C.B.I. vs. Amaramani Tripathi, 2005 AIR Supreme Court 3490***, relevant whereof reads as under:

“14. It is well settled that the matters to be considered in an application for bail are (i) whether there is any *prima facie* or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see **Prahlad Singh Bhati v. NCT, Delhi, 2001(2) RCR (Criminal) 377 (SC) :2001(4) SCC 280** and **Gurcharan Singh v. State (Delhi Administration), AIR 1978 Supreme Court 179**). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in **Kalyan Chandra Sarkar v. Rajesh Ranjan, 2004(2) RCR (Criminal) 254 (SC) :2004(7) SCC 528** : "The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for *prima facie* concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

a. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

b. Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

c. *Prima facie* satisfaction of the **court** in support of the charge. (see **Ram Govind Upadhyay v. Sudarshan Singh, 2002(2) RCR (Criminal) 250 (SC) : 2002(3) SCC 598** and **Puran v. Ram Bilas, 2001(2) RCR (Criminal) 801 (SC) : 2001(6) SCC 338**.”

This Court also in specific terms held that :

*“the condition laid down under section 437(1)(i) is sine qua non for granting bail even under section 439 of the Code. In the impugned order it is noticed that the High **Court** has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.”*

9. At the outset, it may be observed that at the stage of consideration of regular bail, this Court is not required, nor would it be appropriate, to undertake a meticulous examination of the legality of commercial transactions or to record definitive findings on the merits of the competing claims, which is to be tested during trial. Nevertheless, the Court cannot remain oblivious to the broader factual backdrop emerging from the record while assessing whether discretion ought to be exercised in favour of the petitioner(s).

9.1. The grant of bail, though discretionary, assumes a narrower compass where allegations pertain to organised diversion of regulated pharmaceutical substances into illicit channels under the guise of lawful business operations. Courts have consistently cautioned that entities operating within the pharmaceutical sector cannot be permitted to cloak unlawful

activities behind the facade of licences or corporate structures, particularly where the allegations disclose large-scale commercial dealings capable of undermining the statutory framework of the NDPS Act. It is a settled principle that legality of form cannot defeat scrutiny of substance; the mere existence of licences or corporate entities does not, by itself, dispel a *prima facie* inference arising from surrounding circumstances.

9.2. In cases involving alleged diversion through layered business arrangements or intermediary entities, the Court is required to adopt a cautious approach, as complex offences pertaining to narcotics, often employ structured transactions or shell arrangements to distance principal actors from the physical recovery of contraband. The submission that the petitioner(s) were operating through licensed entities or formal commercial channels, therefore, cannot be accepted at face value at this stage, particularly when the magnitude of the alleged recovery indicates a coordinated supply chain extending beyond isolated transactions. Commercial sophistication cannot be permitted to become a shield against criminal accountability.

10. In the present case, the petitioner(s) were arrested on 13.05.2025, 25.05.2025, 13.06.2025 and 11.09.2025, respectively, whereinafter investigation was carried out and challan was presented on 05.08.2025. Out of total cited 49 prosecution witnesses, none has been examined till date. The trial is underway. Indubitably, the petitioner(s) are involved in the complaint in question pertaining to huge commercial quantity of contraband as per NDPS Act, 1985. *Prima facie*, the petitioner(s) are accused of having dealings in narcotic substances with the firm(s) which exist only on papers and not

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physically. From the rival submissions as also the material brought forth before me, no cause is made out in favour of the petitioner(s) to meet with the rigors of Section 37 of the NDPS Act. Hence, keeping in view the entirety of the factual *milieu* of the case in hand; especially the contraband alleged to be recovered being commercial in nature; the petition(s) in hand deserve to be dismissed.

11. Ordered accordingly.
12. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
13. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

February 11, 2026

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No