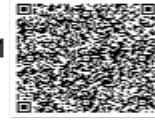


IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:007731



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CRM-M-60555-2025 (O&M)
Date of decision:20.01.2026

Abhishek Singh @ Abhi

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. The instant petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”) for grant of regular bail in case arising out of FIR No.60, dated 02.04.2025 registered under Section 21-B of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “NDPS”) (offences under Sections 21-C and 29 of the NDPS Act are added lateron), at Police Station Chheharta, District Amritsar, Punjab, on the allegations, that on 02.04.2025, the accused-Rohit Sharma alias Rohit was apprehended by a Police party and he was found in conscious possession of 150 grams of heroin kept in a black coloured polythene. He was formally arrested. The recovered contraband was taken into possession by the Police. The accused-Rohit Sharma was interrogated and suffered disclosure statement, on the basis of which, the present petitioner and co-accused Arshdeep Singh were nominated as accused, on

the allegations that they were involved with Rohit Sharma alias Rohit in drug peddling. They were arrested on the same day. The accused-Rohit Sharma alias Rohit also suffered another disclosure statement on 03.04.2025 and nominated the present petitioner. On interrogation, he too suffered disclosure statement to the effect that as per directions of Vikram Singh residing in Dubai and engaged in the business of money exchange, he used to collect money from accused-Rohit Sharma alias Rohit and deliver the same in the house of Vikram Singh for which he used to receive commission. Subsequently, some other persons were also nominated as accused and were arrested. The accused-Rohit Sharma alias Rohit got recovered 860 grams of heroin on 08.04.2025, in pursuance of his subsequent disclosure statement which was taken into possession. Investigation now stands concluded.

2. 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 accused-Rohit Sharma, which cannot be considered to be admissible in evidence. No contraband or any other incriminating material has been recovered from him. He has clean antecedents. His further incarceration would not served any useful purpose. The trial will take considerable time to conclude. It is, therefore, argued that he deserves to be released on bail.

3. Per contra, learned State Counsel has argued that there are serious allegations as levelled against the petitioner and co-accused. Recovery of huge quantity of contraband was effected at the instance of accused-Rohit Sharma alias Rohit. The petitioner was involved in the trade of drugs alongwith the co-accused and had been managing drug proceeds. The rigors of Section 37 of the NDPS Act are attracted against him. There are chances of petitioner's absconding or committing similar offence, if

extended benefit of bail. It is, therefore, argued that he does not deserve to be released on bail.

4. This Court has heard rival submissions made by both the parties.

5. 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.

6. The case of the prosecution is that the name of the petitioner was disclosed by the accused-Rohit Sharma alias Rohit, from whom recovery of commercial quantity of heroin has been effected. As per his disclosure statement, he use to earn money after deducting his commission while selling heroin to the present petitioner, as per the directions of Vikram Singh. 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 03.04.2025. 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 be preventive. The deprivation of liberty has been considered as a punishment. As such, Court is of the considered opinion that a case for release of the petitioner on bail 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.

7. In the event of there being any FIR/complaint lodged against the petitioner, it shall be open to the respondent-State to seek redressal by filing an application seeking cancellation of bail.

8. 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.

9. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

20.01.2026

harjeet

**(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No