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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-60621-2025

Date of decision: 13th January, 2026

Amarjeet

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

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

Ms. Himani Arora, DAG, 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. 176 dated 07.08.2024 registered under Section 20 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') (Sections 25 and 29 of NDPS Act and Section 345(3) of BNS Act were added later on) at Police Station Rai, District Sonipat.

2. As per the allegations, on 07.08.2024, on the basis of a secret information, the accused Bijender was apprehended when he was coming in a car and recovery of 13.890 grams of *charas* was effected from him. The

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number plate of the vehicle used by him was found to be false. Offence under Section 345(3) of BNS was added. Accused Bijender suffered disclosure statement on the basis of which the accused Jagdish was nominated as such. He was arrested on 26.09.2024. He too suffered disclosure statement to the effect that he used to sell contraband to the present petitioner and co-accused Bijender and that about two and half months back also, the petitioner and co-accused Bijender had come to him for this purpose. He also disclosed about taking money from the petitioner for the purpose of arranging the contraband. The petitioner was nominated as additional accused and was arrested on 20.03.2025. He suffered disclosure statement admitting his involvement in the subject offences. Call detail record showing his link with the co-accused Jagdish and Bijender had also been collected. Investigation now stands completed.

3. It is argued by learned counsel for the petitioner that he was not named in the FIR and 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. He is in custody for a period of about ten months. His further incarceration would not serve any useful purpose. The co-accused Jagdish has already been extended benefit of bail. On parity, he too deserves to be released on bail. With these broad submissions, it is urged that the petition deserves to be allowed.

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4. Status report and custody certificate have been filed by respondent-State. Learned State counsel has argued that there are serious allegations against the petitioner. The rigors of Section 37 of NDPS Act are attracted as commercial quantity of contraband was recovered from the possession of the co-accused. There are chances of his absconding or committing similar offences if extended benefit of bail. Hence, it is stressed that the petition does not deserve to be allowed.

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

6. The petitioner is alleged to be involved in the business of sale/purchase of the contraband along with the co-accused and as per the allegations, he was in close complicity with the co-accused and had been buying contraband from the accused Jagdish and Bijender. No recovery has been effected from him. Though the allegations make out a *prima facie* case for commission of offence punishable under Section 29 of NDPS Act as against the petitioner, however, the petitioner is in custody for a period of about ten months. 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

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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 disclosed by the co-accused Bijender Singh, from whom recovery of 13 kgs and 890 grams of *charas* has been effected. As per his disclosure statement, he used to sell the contraband to the present 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 20.03.2025. 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

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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 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.

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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 |