



CRM-M-64507-2025

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-64507-2025 (O&M)

Milap Singh

...Petitioner

V/s

State of Punjab

...Respondent

Date of decision: 19.01.2026**Date of Uploading : 19.01.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Gaurav Datta, Advocate with
Mr. Vaibhav Bhargav, Advocate for the petitioner.
Mr. Jaypreet Singh, DAG Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of the Bharatiya Nagrik Suraksha Sanhita seeking grant of regular bail to the petitioner in case bearing FIR No.0031 dated 26.05.2025, registered for the offences punishable under Sections 21, 25, 27(a) 29 of the NDPS Act at Police Station State Special Operations Cell, District Intelligence Wind (CID), Amritsar.

2. The gravamen of the FIR in question pertains to recovery of commercial quantity of Heroin alongwith an amount of Rs.42,00,000/-. As per the prosecution case, it was alleged that on 26.05.2025, on the basis of secret information, a police party apprehended accused Ajay Pal Singh and Hardeep Singh from a motorcycle bearing registration No. PB02CY6917 and recovered 2 kg 500 grams of heroin from their conscious possession.

During the same operation, the petitioner namely Milap Singh was

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intercepted while driving a Fortuner vehicle bearing registration No. HR26DY5140, from whose possession an amount of ₹42,00,000/- along with an electronic currency counting machine was recovered which was suspected to be a drug money. On the basis of these allegations, the present FIR was registered and investigation ensued. The petitioner was arrested on 26.05.2025 and has remained in custody since then.

3. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated into the FIR in question as no contraband has been recovered from him. Learned counsel has further iterated that the alleged amount belongs to his agriculturist father and is supported by J-Forms, bank statements, Jamabandi and loan documents. It is argued that Section 27-A of the NDPS Act has been wrongly invoked only to attract the rigours of Section 37 of the NDPS Act. Learned counsel has further submitted that the FIR is a sheer abuse of process of law and is reflective of the arbitrary and unlawful actions of the police authorities who appear to have planted a false case upon the petitioner. Learned counsel has further submitted that mandatory provisions of the NDPS Act have not scrupulously been complied with, and thus, the prosecution case suffers from inherent defects. Learned counsel has iterated that the trial is delayed and the liability thereof cannot be fastened upon the petitioner. Learned counsel has further iterated that a bare reading of the FIR demonstrates that the petitioner has been falsely implicated into the FIR in question. Learned counsel has emphasized that an amount of Rs.42,00,000/- which is alleged to have been recovered from the petitioner is on account of the sale of the property and has no connection with any drug transaction. According to

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learned counsel, the separate recoveries attributed to the petitioner and the co-accused cannot be clubbed to bring the case within the ambit of commercial quantity. Learned counsel has emphasized that the prosecution case rests solely on suspicion as no contraband has been recovered from the possession of the petitioner. According to learned counsel, mere recovery of money without supporting evidence of financing a drug network would not fall within the ambit of Section 27-A of the NDPS Act. Learned counsel has further submitted that the petitioner has clean antecedents and is not involved in any other NDPS case. According to learned counsel, the petitioner is stated to be in custody since 26.05.2025 and the trial is not expected to conclude in the near future. In such circumstances, continued incarceration of the petitioner would serve no useful purpose particularly when the alleged recovery of contraband is not recovered from the petitioner and hence the rigors of Section 37 of the NDPS do not apply. On the strength of aforesaid submission, the grant of petition in hand is entreated for.

4. *Per contra*, learned State counsel has vehemently opposed the grant of bail to the petitioner by arguing that the allegations raised against the petitioner are serious in nature. Learned State counsel has iterated that the petitioner is an active member of an organized drug trafficking syndicate and was entrusted with the role of collecting and channelizing drug proceeds through hawala. According to learned counsel, the recovery of a huge amount of cash along with a currency counting machine clearly establishes his involvement in financing illicit traffic. Furthermore, the conduct of the petitioner itself indicates consciousness of guilt and the recovery effected is



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not accidental or planted as alleged. Furthermore, the sequence of events collectively establishes *prima facie* material indicating active participation of the petitioner. Learned State counsel seeks to place on record custody certificate dated 18.01.2026 in Court today, which is taken on record. As per the said custody, the petitioner has suffered incarceration of 07 months and 17 days.

In view of the nature of the allegations, learned State counsel prays for the dismissal of the instant petition.

5. I have heard learned counsel for the rival parties and have perused the available record.

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



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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/Illaq (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."*

7. 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



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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."*

*In **Panchanan Mishra v. Digambar Mishra, 2005(1) Apex Criminal 319 : 2005(1) RCR(Criminal) 712 (SC) : 2005(3) SCC 143**, this Court observed :*

"The object underlying the cancellation of bail is to protect the fair trial and secure justice being done to the society by preventing the accused who is set at liberty by the bail order from tampering with the evidence in the heinous crime..... It hardly requires to be stated that once a person is released on bail in serious criminal cases where the punishment is quite



stringent and deterrent, the accused in order to get away from the clutches of the same indulge in various activities like tampering with the prosecution witnesses, threatening the family members of the deceased victim and also create problems of law and order situation."

8. Indubitably, the petitioner and the co-accused were found together at the same place and time. At the outset, it is to be noted that commercial quantity of heroin has been recovered in the present case. Though no narcotic substance has been recovered from the petitioner himself, the allegations against him pertain to financing and conspiracy which fall squarely within the ambit of Sections 27-A and 29 of the NDPS Act. The recovery of amount of ₹42,00,000/- along with an electronic currency counting machine from the petitioner, when viewed in conjunction with the recovery of commercial quantity of heroin from co-accused during the same transaction, *prima facie* indicates the role of the petitioner in the alleged drug trafficking network. However, the question whether the recoveries can be treated separately or have some connection between them, is a matter that will be decided only after evidence is led during the course of trial. At the stage of consideration of regular bail, the Court is not expected to conduct a detailed examination of evidence. Furthermore, the recovery of narcotic substance from the co-accused cannot be viewed in isolation. At this stage, a *prima facie* satisfaction is adequate for the purpose of consideration for plea of regular bail. Furthermore, the explanation furnished by the petitioner regarding the source of money involves disputed questions of fact which cannot be conclusively adjudicated at this stage. The argument that Section 27-A of the NDPS Act has been wrongly invoked cannot be accepted at this stage. The material collected by the investigating



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agency, including the secret information and the coordinated recovery, *prima facie* suggests that the petitioner was involved in the collection and movement of proceeds of narcotic trade. Whether the recovered amount is ultimately proved to be drug money is a matter to be ratiocinated upon during the course of trial. In view of the statutory embargo under Section 37 of the NDPS Act, this Court is required to record a satisfaction that there are reasonable grounds for believing that the petitioner is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. From the material available on record, this Court is unable to record such satisfaction.

9. In the considered opinion of this Court, the Court must primarily see whether there exists reasonable material connecting the accused to the offence. In the considered opinion of this Court, the allegations as also the manner of recovery disentitled the petitioner to the discretionary relief of regular bail. Furthermore, no accentuating circumstances have been made which may *prima facie* constitute a compelling ground for the grant of regular bail to the petitioner, especially in light of the gravity of the allegations and the evidence placed on record. The Court cannot accept the plea of the petitioner of false implication merely based on assertions without evidence. The argument of the learned counsel that only money has been recovered from the petitioner cannot be accepted at this stage as the surrounding circumstances of the incident raise doubts that can only be clarified during the course of trial. The petitioner has been in custody since 26.05.2025 but custody, by itself, is not a ground for bail when the allegations are serious and investigation is still in progress.



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Releasing the petitioner at this stage may affect the investigation especially when the role of the co-accused and any possible connection between the two is still being examined.

10. In view of the seriousness of the allegations coupled with the nature of the offence, the role attributed to the petitioner & the statutory bar under the NDPS Act, this Court is of the considered opinion that the petitioner is not entitled to the concession of regular bail in the factual *milieu* of the case in hand.

11. In view of the prevenient ratiocination, it is ordained thus:

- (i) The present petition is devoid of merit and is hereby dismissed.
- (ii) Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.
- (iii) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

January 19, 2026

Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No