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

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CRM-M-66884-2025 (O&M)

Date of decision: 24.03.2026

Prabhpreet Singh**...Petitioner****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. H. S. Multani, Advocate
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

Mr. Sourabh Goel, Special Public Prosecutor with
Ms. Anju Bansal, Advocate
for respondent No. 2/NCB/UOI.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) by the petitioner seeking grant of anticipatory bail in case arising out of Crime No. 22/2025 dated 31.10.2025, registered under Sections 8, 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*), NCB Chandigarh Zonal Unit, Police Station Civil Lines, Patiala.

2. Vide order dated 01.12.2025, the petitioner was granted interim bail with a direction to join the investigation by passing the following order:

“....2. In nut-shell, the facts emerging from record are that the prosecution of the petitioner is taking place pursuant to a complaint preferred by the ‘Narcotic

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Control Bureau', hereinafter being referred to as 'NCB' only. According to complainant, the abovementioned case has been registered on the statement of Karamveer Singh, Intelligence Officer, NCB, Chandigarh. According to complain, it was stated by the abovementioned officer that on recovery of 2.86 gms of MDMA from the possession of Sahil on 31.01.2025, he was interrogated, and then on interrogation he suffered a disclosure statement nominating the present petitioner.

3. Notice of motion.

4. Since advance notice has already been served upon the State, Mr. Eklavya Darshi, DAG Punjab accepts notice on behalf of respondent State, and waives service.

5. Mr. Sourabh Goel, Special Public Prosecutor puts in appearance on behalf of the respondent No.2 and waives service. Status report has been filed. The same be taken on record.

6. Heard.

7. It has been contended on behalf of petitioner that the petitioner is innocent, from whose possession no contraband has been recovered. As per learned counsel for the petitioner otherwise also, the recovery of contraband from the possession of co-accused Sahil, i.e. 2.86 gms of MDMA is non-commercial quantity, and therefore, rigors of Section 37 of NDPS Act are not attracted in the present case. It has also been contended by learned counsel for the petitioner that the only evidence, collected so far against the petitioner, is the disclosure statement suffered by co-accused Sahil. According to learned counsel for the petitioner, the abovementioned disclosure statement of co-accused Sahil cannot be read against the petitioner as the same was recorded when the co-accused Sahil was already in

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custody of NCB.

8. *Per contra*, the learned counsel for the respondent has contended that allegations against the petitioner are very specific and categorical qua the fact that the packet containing the contraband was booked by him. In order to fix the role played by the petitioner with regard to trade of drugs and also to dig out the source of supply, custodial interrogation of the petitioner is necessary.

9. The record has been perused carefully.

10. To deal with given fact-situation, the principles of law laid down by the Hon'ble Supreme Court of India in the case of ***Special Leave to Appeal (Crl.) No.1266/2023 titled as 'Vijay Singh Vs. The State of Haryana'*** are relevant. In the above mentioned case, the petitioner was not present on the spot at the time of recovery and he was implicated solely on the basis of statement of co-accused. The Hon'ble Supreme Court of India in the above mentioned case afforded the benefit of bail to the accused.

11. Similarly, in the case of ***'Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence' 2018(3) RCR (Criminal) 954***, it has been held by the Hon'ble Supreme Court of India that the disclosure statement of co-accused is inadmissible against another accused, as the disclosure statement is not a substantive piece of evidence against other accused.

12. Similar principle has been laid down by the Hon'ble Supreme Court of India in the case of ***'Preet Kamal Vs. State of Punjab', 2018(4) RCR (Criminal) 938***, wherein it has been held that the disclosure statement of an accused can be used only against the person making the same, and not against the co-accused.

13. In ***'Tofan Singh Vs. State of Tamil Nadu', 2021(4)***

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SCC 1 also, it has been observed by the Hon'ble Supreme Court of India that confessional statement of accused recorded under Section 67 of NDPS Act cannot be admitted in evidence, as a confession.

14. A perusal of the record shows that there are several factors which are required to be taken into consideration in the present petition at this stage. Those factors are:-

- i. that the only evidence available against the petitioner is the disclosure statement of his co-accused and there is a big question-mark with regard to credibility or admissibility of above-mentioned statement in evidence, as the same was recorded when the maker of it (Sahil) was already in police custody. Since pursuant to above-mentioned disclosure statement no recovery or discovery of fact has taken place, the same is prima facie hit by Section 23 of Bharatiya Sakshya Adhiniyam;
- ii. that the quantity of contraband recovered in this case does not come within the ambit of commercial quantity;
- iii. that trial of the case is not likely to be concluded in near future;
- iv. that detention of petitioner in judicial lock-up is not likely to serve any purpose;
- v. that custodial interrogation of the petitioner is not likely to produce a fruitful result;
- vi. that there is nothing on record to show that while on interim anticipatory bail, the petitioner is likely to tamper with the evidence or influence the witnesses; and
- vii. that there is nothing on record to show that while on interim anticipatory bail, the petitioner will not participate/cooperate in the investigation.

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15. Taking into consideration the cumulative effect of all the abovementioned factors, it is hereby held that the petitioner is entitled for interim anticipatory bail.

16. Thus, it is hereby ordered that in the event of his arrest, the petitioner shall be released on interim anticipatory bail on furnishing bonds to the satisfaction of the Arresting Officer. The petitioner shall join the investigation as and when called by the Investigating Officer. He shall abide by the terms and conditions as envisaged under Section 482(2) of the BNSS, 2023.

17. List on 09.02.2026.

18. Let status report and detailed reply, if any, be filed by the State by next date.”

3. Learned Special Public Prosecutor, assisted by learned State counsel, has submitted that the petitioner has not cooperated in investigation as he has not got his mobile phone recovered. However, he has not disputed the fact that the petitioner has already joined the investigation on 11.01.2026 and thereafter on 27.01.2026 and is no more required for any further custodial interrogation.

4. In reply, learned counsel for the petitioner has submitted that the said mobile phone of the petitioner has lost and he is not in possession of the same.

5. This Court has heard the rival submissions.

6. Be that as it may, the petitioner has admittedly joined investigation on two occasions i.e. on 11.01.2026 and 27.01.2026 and his custodial interrogation is not stated to be required. So far as the contention raised by learned Special Public Prosecutor qua allegation of non-cooperation is concerned, this Court does not find any compelling ground to

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justify custodial interrogation of the petitioner due to that reason. Since the well settled proposition of law is that once an accused joined the investigation, then only because of the reason that nothing incriminating could be discovered or no recovery was got effected from him, would not mean that there is non-cooperation on the part of the accused. Reliance in this context can be placed upon the observation as made in ***Santosh versus State of Maharashtra (2017) 9 SCC 714*** and ***Jugraj Singh versus State of Punjab, SLP No.9190 of 2025***. The purpose of joining investigation is to make oneself available to the investigating agency and to respond to lawful queries and not to compulsorily divulge self-incriminating information. In the instant case, the conduct of the petitioner in appearing before the Investigating Officer and responding to the investigation, satisfies the legal standard of cooperation. Keeping in view the nature of the allegations, pre-trial incarceration of the petitioner is also not required. It is also well settled that pre-trial incarceration should not be a replica of post conviction. As such, a case is made out for allowing the present petition.

7. Accordingly, the present petition is allowed and the order dated 01.12.2025, granting interim bail to the petitioner, is made absolute, subject to the conditions laid down in Section 482(2) of BNS.

24.03.2026

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No