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

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Date of Decision: 16.01.2026

Surender

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL**

Present: Mr. Anmol Jeevan S. Gill, Advocate  
for the petitioner.

Mr. Mohit Chaudhary, AAG, Haryana.

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**RUPINDERJIT CHAHAL, J (ORAL)**

1. Prayer in the instant petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is for grant of regular bail to the petitioner in case FIR No.0167 dated 22.05.2025 registered under Sections 20 (b) (ii) (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, (Sections 25, 27 (a) & 29 of the NDPS Act and Section 238 (a) of Bharatiya Nyaya Sanhita, 2023, added later on during investigation) at Police Station Tosham, District Bhiwani.

2. Brief facts of the present case are that on 21.05.2025, SI Anil Kumar, along with his fellow police officials was on patrolling duty and on suspicion, they intercepted a Creta car and two persons inside the car managed to flee. On search, two plastic bags containing 28.744 Kg. Ganja were recovered from the car. Hence, the present FIR.

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3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and he has no concern with the said offence. He argued that the petitioner was neither present at the spot nor was named in the FIR. It has also been contended that the petitioner was nominated as an accused on the basis of disclosure statement made by co-accused. Apart from the disclosure statement, there is no other evidence to connect the petitioner with the offence in question and it is a trite law that disclosure statement of co-accused during his custodial interrogation is not admissible. He argued that as per the prosecution, recovery of 28.744 kg. of ganja has already been effected from the vehicle and nothing is to be recovered from the petitioner. The petitioner is in custody since 31.07.2025. The investigation in the case is complete, challan stands presented and charges have been framed. He further submits that out of total 33 prosecution witnesses, only 3 have been examined till date and as such, the trial will take a long time to conclude and no useful purpose would be served by keeping him behind bars. Therefore, it is urged that the petition deserves to be allowed.

4. On the other hand, learned State counsel has filed the status report in the matter and while referring to the same, has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature as the recovery in the present case falls under commercial quantity. He further submitted that the petitioner is also involved in 6 other cases meaning thereby he is a habitual offender.

5. On a specific query put by this Court to the learned State counsel as to whether, apart from the disclosure statement, any material has



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been found during investigation to connect the petitioner with the recovered contraband, to which learned State counsel submitted that no material other than disclosure statement has been found to connect the petitioner with either the offence or the recovered contraband.

6. As far as the argument of learned counsel for the petitioner regarding nomination of accused on the basis of disclosure statement is concerned, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court titled as '**Tofan Singh vs. State of Tamil Nadu, AIR 2020 Supreme Court 5592**', relevant whereof reads as under:

*"155. We answer the reference by stating: (i) That the officers who are invested with powers under section 53 of the NDPS Act are "police officers within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act (ii) That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS ACT".*

7. More recently, the Hon'ble Supreme Court in a judgment titled as '**Smt. Najmunisha, Abdul Hamid Chandmiya @ Ladoo Bapu Vs. State of Gujrat, Narcotics Control Bureau' 2024 INSC 290**', has reiterated the ratio decidendi of the judgment of Hon'ble Supreme Court in the case of Tofan Singh (supra).

8. The Hon'ble Supreme Court while dealing with a plea for grant of anticipatory bail in a case under NDPS Act, 1985; in a judgment titled as '**Vijay Singh vs. The State of Haryana, bearing Special Leave to Appeal**



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**(Crl.) No.(s)1266/2023 decided on 17.05.2023'** has held as under:

*"The petitioner is alleged to have committed offences under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter called the NDPS Act". His application for anticipatory bail was rejected by the High Court. The allegations in the FIR are that 1.7 Kg of Poppy Straw (Doda Post) was recovered from the co-accused. The petitioner concededly was not present at the spot but was named by the co-accused. That apart there is no other material to implicate the petitioner. The prosecution urges that another case with allegations of commission of offence under the NDPS Act are pending against the petitioner. It is not denied that in those proceedings he was granted bail. Having regard to these circumstances, the petitioner is directed to the enlarged on anticipatory bail, subject to such terms and conditions as the trial Court may impose. The petition is allowed. All pending applications are disposed of."*

9. The petitioner is sought to be arrayed on the basis of disclosure statement of the co-accused. Suffice to say there is no other material available to connect the petitioner with the recovered contraband. The veracity of the disclosure statement made by the co-accused will be subject to comprehensive scrutiny during the course of the trial and same cannot be a ground to decline the concession of regular bail to the petitioner.

10. Having heard learned counsel for the parties at length and after perusing the record of the case, it is evident that the petitioner is in custody for the last more than 05 months; investigation is complete; challan stands presented; charges have been framed; out of total 33 prosecution witnesses, only 3 have been examined; the complicity of the petitioner is a matter of



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trial, and the trial is likely to take a long time to conclude. No useful purpose would be served by keeping the petitioner in further custody. His continued detention without the prospect of the trial being concluded in the near future would be violative of his rights under Article 21 of the Constitution of India.

11. Reliance is placed upon a judgment in the case of ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, wherein Hon'ble Apex Court has held that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle "*bail is a rule*" and "*jail is an exception*".

12. In view of the above, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned. It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

(RUPINDERJIT CHAHAL)  
JUDGE

16.01.2026  
monika

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No