

2026.PHHC.023711



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

251

CRM-M-71773-2025

Date of decision: 16th February, 2026

Naresh Kumar Dhaker

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Virender Soni, Advocate for the petitioner.
Mr. Neeraj Poswal, Assistant Advocate General, 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. 97 dated 25.04.2025 registered under Sections 15(C) of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act')(Sections 238(c), 345(3) of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') and Section 27(A) and 29 of NDPS Act are added later on) at Police Station Kalanaur, District Rohtak.

2. As per the allegations, on 25.04.2025, a secret information was received to the effect that a Skoda make vehicle bearing registration No. RJ-29-CA-2657 was found parked near Kherari turn from quite some time and it was carrying some contraband. Believing the secret information to be true, a raiding party was immediately formed which reached at the informed place, where the abovementioned vehicle was found parked abandoned. On

2026.PHHC.023711



checking, 19 plastic bags containing 02 quintal 51 kilogram and 100 grams of poppy husk were found kept in the same which were taken into possession along with the vehicle. Investigation proceedings were initiated. Another number plate bearing No. UK-07BD-1011 was found kept beneath the seat which was also taken into possession. On checking the record of the fast tag, one mobile number was found attached with the same and the name of the user of the said mobile phone number was detected to be of one Kuldeep Singh s/o Kulwinder Singh. The call detail record of said Kuldeep Singh was procured and it was revealed that one Darshan had been using the same.

3. As per the further allegations, the accused Darshan was arrested on 27.04.2025. On interrogation, he suffered disclosure statement on the basis of which, the accused Kuldeep had been arrested. Accused Kuldeep also suffered disclosure statement on the basis of which Ranjeet had been nominated as additional accused. He was arrested on 23.06.2025. The present petitioner was nominated as such. He was arrested on 16.07.2025. He too suffered disclosure statement as per which, he was the supplier of the contraband and that he had destroyed the SIM card used by him at the time of the incident. Investigation now stands completed.

4. It is argued by learned counsel for the petitioner that he was not named in the FIR and has been nominated 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. His involvement in other cases cannot be considered to be a reason for denying benefit of bail to him. Trial will take considerable time to conclude. No useful purpose would be served

2026.PHHC.023711



by keeping him in custody anymore. With these broad submissions, it is urged that the petition deserves to be allowed.

5. *Per contra*, learned State counsel while referring to the status report has argued that there are serious allegations against the petitioner. He is a habitual offender as he is involved in other cases. He was the supplier of the contraband to the co-accused. There are chances of his absconding or committing similar offences, if extended benefit of bail. Therefore, it is stressed that the petition does not deserve to be allowed.

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

7. 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.

2026.PHHC.023711



8. The case of the prosecution is that the name of the petitioner was disclosed by the co-accused Ranjeet. 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 has been in custody since 16.07.2025. 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 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.

2026.PHHC.023711



- (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.
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

16th February, 2026
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |