

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:010150



205

CRM-M-73033-2025 (O&M)
Date of decision:23.01.2026

Ajay

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikas Bishnoi, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

...

Manisha Batra, J. (Oral).

1. The present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of anticipatory bail in case arising out of FIR No.798, dated 28.10.2025, registered under Sections 21(b) of the NDPS Act, at Police Station Sadar, District Hisar.

2. As per the allegations, on 28.10.2025, on the basis of a secret information, a child in conflict with law was apprehended and recovery of 7.46 grams of heroin was effected from his conscious possession. He was arrested and recovered contraband was taken into custody. On interrogation, he suffered disclosure statement on 29.10.2025, disclosing that he had purchased the contraband from the present petitioner for a sum of Rs.6000/-.

Petitioner has been nominated as an additional accused.

Apprehending his arrest, he moved an application for grant of pre-arrest bail, which has been dismissed by the Court of learned Additional Sessions Judge, Hisar vide order dated 11.12.2025.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of disclosure statement of co-accused, which cannot be considered to be admissible in evidence. He is on bail in all the other cases as registered against him. He is ready to join the investigation. No recovery is to be effected from him. His custodial interrogation is not required. It is, therefore, urged that he deserves to be released on bail.

4. Status report has been filed. Learned State counsel has argued that taking into consideration the antecedents of the petitioner, who is involved in 03 other cases, out of which 02 cases were of similar nature, the allegations as levelled against him, he does not deserve to be released on bail.

5. This Court has heard the rival submissions made by learned counsel for the parties.

6. The petitioner is alleged to have supplied intermediate quantity of contraband to the co-accused and is alleged to be the source of the same. He was nominated on disclosure statement of co-accused. 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. 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. However, keeping in view the role attributed to the petitioner and the above discussed facts and circumstances, in the opinion of this Court, no case for pre-trial incarceration of the petitioner is made out. It is also well settled that pre-trial incarceration should not be a replica of post conviction sentencing. As such, a case is made out for allowing the present petition. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail subject to the condition that the petitioner shall surrender before the Investigating Officer/Arresting Officer within a period of 10 days from today and shall join the investigation. He shall also join investigation as and when required subsequently. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioner on interim bail on furnishing personal/surety bonds to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 482(2) of BNS.

7. It is, however, clarified that nothing stated above shall have any bearing on merits of the case.

8. Pending application(s), if any, shall also stands disposed of.

23.01.2026

harjeet

Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No

(MANISHA BATRA)
JUDGE