



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

CRM-M-73697-2025 (O&M)

Shivam Diwan ...Petitioner

Versus

State of Punjab ...Respondent

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	24.02.2026
2	The date when the judgment is pronounced	25.02.2026
3	The date when the judgment is uploaded on the website	25.02.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Kushagra Mahajan, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J.

- Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in FIR No. 20 dated 22.02.2025, registered under Sections 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Ranjit Avenue, District Amritsar.
- Brief facts of the case relevant for the disposal of the present petition are that on 22.02.2025, co-accused Sukhraj Singh @ Gori and Anhad Parkash were apprehended by a police party and recovery of 700 intoxicating

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tablets of Tramadol Hydrochloride was effected from them. Since they could not produce any valid license or permit to keep in their possession the recovered drugs, they were formally arrested at the spot. During custodial interrogation, they confessed that they had purchased the drugs from the present petitioner and one Manpreet Singh. Thereafter, co-accused Manpreet Singh was also arrested and 1350 intoxicant injections of Tramadol Hydrochloride, 200 intoxicant injection of NRX Pentazocine, 2600 intoxicant tablets of Alprazolam, 2500 intoxicant tablets of NRX Tramadol Hydrochloride and 360 intoxicant tablets of Clovedool 100 SR were recovered from him. The co-accused Manpreet Singh made disclosure statement that he along with his partner Shivam (present petitioner) is running a medical store under the name & style of DM Medical Store and they both under the garb of medical store are selling intoxicant tablets and injections in huge quantity. On the basis of the same, the petitioner was arraigned as an accused in this case. Apprehending his arrest, he filed application/petitions seeking grant of anticipatory bail but he was denied the said benefit upto Hon'ble Supreme Court. He was eventually arrested on 10.09.2025. Investigation now stands completed and the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of the disclosure statement of the above named co-accused, which cannot be considered to be admissible in evidence. He was neither found at the spot nor was named in the FIR. No subsequent recovery has been effected from him. There is nothing on record to show that the petitioner was involved in the subject crime in any manner with

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the co-accused. Even otherwise, investigation has since been completed and challan has been filed. Conclusion of trial is likely to take considerable time as even charges have not been framed so far. He has been falsely implicated in one more case of similar nature but that too is based on the disclosure statement suffered by a co-accused. The petitioner is in custody since long. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be released on regular bail.

4. Status report along with the custody certificate of the petitioner has been filed by the respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations levelled against the petitioner as well as his criminal antecedents, he is not entitled to get benefit of bail as Section 37 of the NDPS Act would be attracted in this case. On analysis of the call details record of the petitioner, it was found that he was in constant touch over phone with the co-accused, which establishes his complicity in commission of subject offences. It is, thus, argued that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

6. 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

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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.

7. The case of the prosecution is that the name of the petitioner was disclosed by the above named co-accused, from whom recovery of commercial quantity of the contraband was effected. As per their disclosure statements, they had sourced the contraband from the petitioner and co-accused Manpreet Singh. 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 statements 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. The petitioner was arrested on 10.09.2025. There is nothing on record, at this stage, to connect the petitioner either with the subject crime or to show that he was connected with the co-accused in any manner at the relevant time, except the alleged call details record, transcript of which is admittedly not available on record and in that eventuality, it cannot be said at this stage that the petitioner was involved in commission of subject offences with the co-accused. Investigation has been completed and challan has been filed. Conclusion of trial would take considerable time as even charges have not been framed so far. Though, the petitioner is shown to be involved in one more case of similar

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nature but it cannot be ignored that such implication is also based on the disclosure statement of a co-accused. Even otherwise, in the given circumstances, that alone cannot be made a ground for denying him the concession of bail. Keeping in view the aforesaid facts and circumstances, this Court is of the considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

25.02.2026

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No