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

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Date of decision: 07.07.2025

Naresh

...Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sushil Sheoran, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, 2023 seeking grant of regular bail to the petitioner in FIR No.3 dated 07.01.2025, under Sections 20/29 of the NDPS Act, registered at Police Station Machhroli, District Jhajjar.
2. The case set up in the FIR in question is that 35 kgs 350 grams of Ganja came to be recovered from one Ashok @ Chotu and Sandeep. Thereafter, upon a disclosure made by co-accused Ashok @ Chotu on 12.01.2025, the petitioner was arraigned as an accused.
3. Learned counsel for the petitioner has iterated that the story put forth by the prosecution is highly implausible, concocted and fabricated just to implicate the petitioner in a false case. Learned counsel has further iterated that the petitioner is not named in the FIR and has been implicated solely on the basis of disclosure statement of a co-accused, which is inadmissible under law. Moreover, the disclosure statement of the co-accused has been deliberately and improperly fabricated by the investigating



agency while the petitioner has no involvement whatsoever in the alleged incident. Furthermore, there is no material on record to connect the petitioner with the alleged recovery and the petitioner has been falsely implicated in the instant case. According to learned counsel, the misuse of the procedural safeguards and reliance on inadmissible evidence highlights the malicious intent behind the action of the prosecution and warranting interference by this Court to release the petitioner from unjustified detention. It has been further submitted that the alleged recovery was not made from the petitioner but from some other persons. Based on the allegations outlined in the FIR, it is contended that no case is made against the petitioner, and the prosecution's narrative appears to be an attempt to falsely implicate the petitioner. The learned counsel further maintains that the entire prosecution case relies on the testimony of official witnesses, raising doubts about the credibility of the prosecution's account. Since the challan has already been filed before the competent Court of jurisdiction and hence no useful purpose would be served by keeping the petitioner in custody. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. *Per contra*, learned State counsel has strenuously opposed the instant petition by arguing that the allegations against the petitioner are serious in nature. Learned State counsel has further submitted that the FIR in question pertains to recovery of 35 Kg 350 grams of Ganja (commercial quantity) and, therefore, the bar under Section 37 of the NDPS, 1985 is attracted. Furthermore, expressing concerns about the possibility of the petitioner fleeing from the trial proceedings, learned State counsel submits that petitioner ought not be granted the concession of regular bail. Learned



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State counsel has filed the custody certificate dated 04.07.2025 and has relied upon the involvement of the petitioner in 01 other case under Sections 279, 336, 186, 353, 120-B IPC and Section 61-1-14 of the Excise Act. He has, accordingly, sought for dismissal of the petition in hand.

5. I have heard learned counsel for the rival parties and have perused the available record.

6. Before delving further into the merits of the present matter, it would be germane to refer herein to a judgment passed by this Court in ***Anshul Sardana vs. State of Punjab: 2025:PHHC:004198***, relevant whereof reads as under:

“6. At this juncture, 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"

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)*.

6.1 Further, the Hon'ble Supreme Court; while dealing with a plea for bail in a case under NDPS Act, 1985; in a judgment titled as ***State by (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr.***, 2022(1) RCR (Criminal) 762, has held as under:-



“9. Having gone through the records alongwith the tabulated statement of the respondents submitted on behalf of the petitioner-NCB and on carefully perusing the impugned orders passed in each case, it emerges that except for the voluntary statements of A-1 and A-2 in the first case and that of the respondents themselves recorded under Section 67 of the NDPS Act, it appears, prima facie, that no substantial material was available with the prosecution at the time of arrest to connect the respondents with the allegations levelled against them of indulging in drug trafficking. It has not been denied by the prosecution that except for the respondent in SLP (Crl.) No. 1569/2021, none of the other respondents were found to be in possession of commercial quantities of psychotropic substances, as contemplated under the NDPS Act

10. It has been held in clear terms in *Tofan Singh Vs. State of Tamil Nadu*, (2021) 4 SCC 1, that a confessional statement recorded under Section 67 of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act. In the teeth of the aforesaid decision, the arresis made by the petitioner-NCB, on the basis of the confession/voluntary statements of the respondents or the co-accused under Section 67 of the NDPS Act, cannot form the basis for overturning the impugned orders releasing them on bail. The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial. For the aforesaid reason, this Court is not inclined to interfere in the orders dated 16th September, 2019, 14th January, 2020, 16th January, 2020, 19th December, 2019 and 20th January, 2020 passed in SLP (Crl.) No Diary No. 22702/2020, SLP (Crl.) No. 1454/2021, SLP (Crl.) No. 1465/2021, SLP (Crl.) No. 1773-74/2021 and SLP (Crl.) No. 2080/2021 respectively. The impugned orders are, accordingly, upheld and the Special Leave Petitions filed by the petitioner-NCB seeking cancellation of bail granted to the respective respondents, are dismissed as meritless.”

6.2 Still further, the Hon'ble Supreme Court; while dealing with a plea for grant of 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 (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."

6.3 It is a well established principle of law that a confession made by a co-accused under Section 67 of the NDPS Act is inherently a very weak piece of evidence. Such statement(s), by themselves, cannot form the sole basis for the conviction of an individual and must be scrutinized with utmost caution in conjunction with other substantive evidence. Moreover, no recovery has been effected from the possession of the petitioner, who has been subsequently implicated as an accused solely on the basis of disclosure statement of the co-accused. However, as regular bail pertains to life and liberty of individual, Courts are obligated to strike a balance between safeguarding personal liberty and ensuring the effective administration of justice as also investigation. The final evidentiary value and admissibility of the disclosure statement made by a co-accused fall within the domain of the trial Court and are to be adjudicated during the course of the trial in accordance with established principles of law. However, while adjudicating a plea for regular bail, this Court cannot remain oblivious to the circumstances under which the petitioner has been arraigned or implicated, including the nature of the allegations, the evidence linking the petitioner to the offence as well as the specific role attributed to the petitioner in the commission of the alleged offence. A prima facie examination of these factors is essential to ensure that the process of law is not misused, abused or misdirected."

7. The petitioner has been implicated as an accused in the FIR in question solely on the basis of the disclosure statement of a co-accused, who is alleged to be in possession of 35 kgs 350 grams of ganja which falls under the ambit of commercial quantity. Subsequently, on 15.01.2025, the

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petitioner was apprehended during the course of further investigation. As per the prosecution version, there is no other material available to connect the petitioner with the contraband in question. It is pertinent to note that such disclosure statements, in the absence of corroborative evidence hold limited evidentiary value and cannot be sole basis for implicating the petitioner. The reliance on this unsubstantiated statement raises serious doubts about the fairness and objectivity of the investigation. It is not in dispute that the petitioner was not present at the spot. The veracity and weightage required to be attached to the disclosure statement made by the co-accused will be fully tested at the time of trial. However, the same cannot be construed as sufficient by itself to decline the concession of regular bail to the petitioner.

8. The petitioner was arrested on 15.01.2025 whereinafter investigation was carried out and challan stands presented on 30.04.2025. Charges in the trial in question were framed and total 19 prosecution witnesses have been cited, out of which none has been examined till date. It appears that the trial is procrastination & there appears to be no chance of its culmination in near future. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question on the basis of disclosure statement of co-accused & the weightage/veracity of the evidence brought by the prosecution alongwith challan (final report); are issues of contentious nature which are essentially required to be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought



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forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

The petitioner is stated to be involved in one other case under Sections 279, 336, 186, 353, 120-B IPC and Section 61-1-14 of the Excise Act but, in the considered opinion of this Court, the factum of petitioner being involved in other criminal case would not be a reason, sufficient by itself, to decline the concession of regular bail to the petitioner qua the FIR in question especially when the petitioner has been able to make out a case for grant of regular bail in the FIR in question on merits thereof. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Muulana Mohd. Amir Rashadi vs. State of U.P. and another, 2012(1) RCR(Criminal) 586*; a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das vs. State, 1998(2) RCR(Criminal) 477* & judgments of this Court in *CRM-M-38822-2022* titled as *Akhilesh Singh vs. State of Haryana*, decided on 29.11.2021 and *Balraj vs. State of Haryana, 1998(3) RCR (Criminal) 191*.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

9. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned trial Court/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.



- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

10. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned trial Court/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State shall be at liberty to move cancellation of bail of the petitioner.

11. Ordered accordingly.

12. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

13. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

July 07, 2025
Ajay

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