



CRM-M-28338-2025 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM-M-28338-2025 (O&M)****Reserved on : 23.09.2025****Pronounced on : 25.09.2025**

Bilal

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by: Mr. Vipul Sharma, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, Addl. A.G. Haryana.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 20(b)(ii)(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter being referred to as 'NDPS Act' only, and Section 25(1-B)(a) of the Arms Act, the FIR No.440 dated 23.09.2024, has been lodged in Police Station Hodal, District Palwal. The petitioner is being prosecuted for the commission of abovementioned offences and he has been arrested. The petitioner is in custody since 03.03.2025 and, therefore, craving for bail. This is first petition, filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Briefly stating the facts emerging from the record are that the abovementioned FIR came into being on 23.09.2024 when on the basis of a



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tip-off given by an informer, ASI Sunder Singh intercepted the car of Ajit Singh and after due formalities, recovered 48.400 kg of cannabis, kept in two plastic bags from his possession. According to prosecution case, a loaded pistol with four live cartridges were also recovered. It has also been alleged by the prosecution that the above-named accused when interrogated suffered a disclosure statement, wherein he disclosed that the contraband and pistol were supplied to him by the petitioner.

3. Heard.

4. It has been contended by learned counsel for the petitioner that the petitioner is innocent and by cooking up a false story, he has been roped-up in the present case. According to learned counsel for the petitioner at the time of alleged recovery, the petitioner was already in custody and confined in Mathura jail, but merely on the basis of disclosure statement of co-accused, he has been implicated in the present case.

5. In addition to above, it has also been argued by learned counsel for the petitioner that no contraband has been recovered from the possession of petitioner, and that at the time of commission of offence, the petitioner was in custody, and that nothing is left to be recovered from his possession. According to learned counsel for the petitioner, in the given fact-situation, the petitioner is entitled for the benefit of bail.

6. *Per contra*, learned State Counsel has argued that in the present case, the involvement of petitioner in the commission of crime has been duly

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admitted by his co-accused, and that from the possession of co-accused of the petitioner, the quantity of recovered contraband was commercial quantity. As per learned State Counsel in the abovementioned circumstances, rigors of Section 37 of NDPS Act are attracted in the present case, and therefore, the petitioner is not entitled for the benefit of bail.

7. The record has been perused carefully.

8. In the present case, a bare perusal of record shows that it is an admitted case that at the time of recovery of contraband, the petitioner was not present on the spot. Since the petitioner was not found in the conscious possession of any contraband, for the alleged recovery, he cannot be held liable for being in possession of contraband. However, the allegations of the prosecution in the present case are that the petitioner had supplied the abovementioned contraband to the accused Ajit, from whose conscious possession the contraband was recovered. Thus, by virtue of Section 29 of NDPS Act, the petitioner is liable for prosecution.

9. With regard to abovementioned allegations, the prosecution story goes to show that only evidence available with the investigating agency is the disclosure statement of co-accused. It is also an admitted fact that disclosure statement of co-accused was recorded when he was already in police custody. Therefore, there is a big question mark with regard to admissibility of abovementioned disclosure statement.



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10. With regard to given fact-situation, the principles of law have been laid down by the Hon'ble Supreme Court of India in the case of '*Smt. Najmunisha, Abdul Hamid Chandmiya @Ladoo Bapu Vs. State of Gujarat, Narcotics Control Bureau*', 2014 INSC 290, wherein the Hon'ble Supreme Court of India has ruled that confessional statement recorded under Section 67 of NDPS Act cannot be considered to be admissible in trial, as confessional statement against the accused.

11. It is also relevant to mention here that the situation, similar to the present case, cropped-up in *Special Leave to Appeal (Crl.) No.1266/2023*, titled as '*Vijay Singh Vs. The State of Haryana*'. In the abovementioned case, the petitioner was not present on the spot at the time of recovery and he was implicated solely on the basis of statement of co-accused. The Hon'ble Supreme Court of India in the abovementioned case afforded the benefit of bail to the accused.

12. Similarly, in the case of '*Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence*' 2018(3) RCR (Criminal) 954, it has been held by the Hon'ble Supreme Court of India that the disclosure statement of co-accused is inadmissible against another accused, as the disclosure statement is not a substantive piece of evidence against the other accused person.

13. Similar principle has been laid down by the Hon'ble Supreme Court of India in the case of '*Preet Kamal Vs. State of Punjab*', 2018(4) RCR (Criminal) 938, wherein it has been held that the disclosure statement



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of an accused can be used only against the person making the same and not against the co-accused.

14. In *'Tofan Singh Vs. State of Tamil Nadu', 2021(4) SCC 1* also, it has been observed by the Hon'ble Supreme Court of India that confessional statement of accused recorded under Section 67 of NDPS Act cannot be admitted in evidence, as a confession.

15. It is also relevant to mention here that from the possession of co-accused of the petitioner, commercial quantity of contraband has been recovered and that is why, the learned Special Judge has observed that rigors of Section 37 of NDPS Act are applicable in the present case. However, in this regard, the law propounded by the Hon'ble Supreme Court of India in the case of *'Mohd. Muslim @Hussain Vs. State (NCT of Delhi), 2023 AIR SC 1648*, is relevant, wherein the Hon'ble Supreme Court of India has ruled that principles of fairness embodied under Article 21 of the Constitution override the statutory restrictions on grant of bail under Section 37 of NDPS Act.

16. Taking into consideration the abovementioned principles of law, which are applicable to the given facts situation of this case, it is hereby held that for the decision of present petition, following are the factors which are required to be taken into consideration: -

- (1) that the petitioner is in custody for a period of more than 06 months;



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- (2) that the petitioner has been simply implicated on the basis of confessional statement of co-accused, which *prima facie* appears to be inadmissible in evidence;
- (3) that nothing objectionable has been recovered from the possession of petitioner;
- (4) that nothing is left to be recovered from the possession of the petitioner;
- (5) that the trial is not likely to be concluded in near future;
- (6) that detention of the petitioner in judicial lockup is not likely to serve any purpose; and
- (7) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses.

10. If cumulative effect of all the abovementioned factors is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail.

11. Accordingly, without commenting anything on the merits of the case, the present petition is hereby allowed and the petitioner is hereby admitted to bail subject to his furnishing bail bonds to the satisfaction of the learned trial Court.

(SURYA PARTAP SINGH)
JUDGE

SEPTEMBER 25, 2025

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No