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

CRM-M-27223-2025

Date of Decision:30.07.2025

KULWANT SINGH ALIAS KANTA

...PETITIONER

VS.

STATE OF PUNJAB

...RESPONDENT

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Abhaysher Singh, Advocate
for the petitioner.

Mr. Ravneet Singh Joshi, Deputy, A.G., Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 483 BNSS with a prayer to grant regular bail to him in case FIR No.12 dated 12.02.2025, registered under Sections 15(b) of NDPS Act 1985 (later on added Section 27 of NDPS Act vide DDR No.41 dated 13.02.2025), Police Station Dayalpura District Bathinda.

2. Learned counsel for the petitioner contends that as per the case set up by the prosecution, 02 plastic bags containing 20 kg. of poppy husk each i.e. total 40 kg. poppy husk were recovered from the car of the petitioner. He further contends that the said quantity is 'non-commercial' in nature and rigours of Section 37 of the NDPS Act would not apply to the facts of the present case. Learned counsel further contends that even the mandatory provisions of NDPS



Act relating to search and seizure were not followed in the present case and due to non-compliance of provisions of NDPS Act, the recovery of contraband in the present case stand vitiated. The petitioner was arrested in the present case on 12.02.2025 and is in custody for the last more than 05 months.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that 05 more cases of NDPS Act have been ordered to be registered against the present petitioner and he does not deserve the concession of bail by this Court.

4. I have heard the learned counsel for the parties and perused the record carefully.

5. No doubt the petitioner is found involved in 05 other criminal cases, but the same is not the ground to deny the concession of bail to the petitioner, specially when he has been able to make out a case for grant of bail in the peculiar facts and circumstances of the present case. Reliance can also be placed in the matter of *Prabhakar Tewari Vs. State of U.P., and another 2020(1) R.C.R. (Criminal) 831* in which the Hon'ble Supreme Court has held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of *Maulana Mohd. Amir Rashadi Vs. State of U.P., and another 2012(1) R.C.R. (Criminal) 586*.

6. The quantity of contraband, which was recovered from the petitioner in the present case is 'non-commercial' in nature and rigours of Section 37 of the NDPS Act may not apply to the facts of the present case. Even otherwise, the petitioner is stated to be in custody for the last more than 05 months and challan has been presented against the petitioner. However no



witness has been examined so far. Thus, the trial is not likely to conclude in near future and further custody of the petitioner will not serve any useful purpose.

7. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/Duty Magistrate/Chief Judicial Magistrate subject to 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, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner is involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.

(vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.



(viii) The petitioner shall report every 1st Monday in English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.

8. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

30.07.2025

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**(N.S. SHEKHAWAT)
JUDGE**

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