



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

227

CRM-M-40236-2025

Date of decision: 16<sup>th</sup> September, 2025

Sandeep Sharma @ Lovely

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Mohinder Kumar, Advocate for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

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**MANISHA BATRA, J (ORAL):-**

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 32 dated 06.05.2025 registered under Sections 22(C) of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short '*NDPS Act*') (Section 29 of NPDS Act added later on) at Police Station Dhilwan, District Kapurthala, Punjab.

2. As per the allegations, on 06.05.2025, on receipt of a secret information, accused Amar Malik and Gurpreet Singh @ Gopi were apprehended by police party and recovery of 400 grams of *heroin* kept in a black polythene bag in the pocket of trousers of accused Aman Malik, was effected. The above named accused were formally arrested. They were interrogated and suffered disclosure statements that the recovered contraband was to be supplied to the petitioner. The petitioner was nominated as an accused and was arrested on 07.05.2025. Investigation now



stands completed.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He was not named in the FIR. He has been in custody since 07.05.2025. The disclosure statement of the co-accused thereby nominating him as accused cannot be considered to be admissible in evidence. No recovery has been effected from him. His further incarceration would not serve any useful purpose. Investigation and trial would take considerable time to conclude. It is, therefore, urged that he deserves to be released on bail.

4. *Per contra*, while controverting the contentions as raised by learned counsel for the petitioner, it is argued by learned State counsel that there are serious allegations against the petitioner. The rigors of Section 37 of NDPS Act are attracted. There are chances of petitioner's absconding or committing similar offences, if extended benefit of bail. He is involved in one more case under the provisions of NDPS Act. It is, therefore, urged that he does not deserve to be released on bail.

5. This Court has heard learned counsel for the parties at considerable length.

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 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 co-accused Amar Malik and Gurpreet Singh @ Gopi, from whom recovery of commercial quantity of 400 grams of *heroin* has been effected. As per his disclosure statement, he had sourced the contraband from the petitioner. 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. The petitioner is in custody since 06.05.2025. Trial will take considerable 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. As per the discussion made above, this Court is of the considered opinion that a case for release of the petitioner is made out. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/ Duty Magistrate concerned and on 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 or tamper with the evidence of the case in any manner whatsoever.

(ii) he shall not leave the country under any circumstance without permission of the learned trial Court.

(iii) he shall appear before the learned trial Court as and when directed.

(iv) he shall provide his address where he would be residing after release and shall not change the same without informing the concerned IO/SHO.

(v) the petitioner shall upon his release give his mobile phone number to concerned IO/SHO and shall keep his mobile phone switch on all times.

8. In the event of there being any FIR/complaint lodged against the petitioner, it shall be open to the respondent to seek redressal by filing an application seeking cancellation of bail.

9. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and shall not influence the outcome of the trial.

10. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

**[MANISHA BATRA]**  
**JUDGE**

**16<sup>th</sup> September, 2025**

*Parveen Sharma*

1. *Whether speaking/ reasoned* : *Yes / No*  
2. *Whether reportable* : *Yes / No*