232 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CNR No: PHHC011511852026
2026:PHHC:128790

CRM-M-50695-2026 (O&M)
Date of Decision: 11.09.2026

AJAY KUMAR ... PETITIONER

VERSUS

STATE OF HARYANA ... RESPONDENT

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Amit Choudhary, Advocate for the petitioner.

H.S. GREWAL, J. (ORAL)

1. This is the first petition seeking regular bail under Section 483 of the BNSS, 2023 (U/s 439 Cr.P.C.) in FIR No. 262 dated 13.07.2024, registered under Section 15(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Agroha, District Hisar.

2. The case of the prosecution is that on the basis of a secret information received by ASI Rajbir that the petitioner along with co-accused namely Kuldeep @ Kuldeep Singh and Kamal, had stored Doda Post in a rented room belonging to one Govind. After complying with the mandatory provisions of law, the police conducted a search of the said room and recovered 1 quintal and 32.360 kilograms of Chura Post from plastic bags kept therein. Since the recovered contraband falls within the category of commercial quantity, the present FIR was registered under Section 15(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985. Upon completion of the investigation and other necessary formalities, the challan was presented before the competent Court.

3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. It is further

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submitted that there has been non-compliance with the provisions of Section 50 of the Narcotic Drugs and Psychotropic Substances Act, 1985, as the alleged recovery was not effected from the conscious possession of the petitioner, no Gazetted Officer or Magistrate was associated at the time of search, and no independent witness was joined during the proceedings, thereby rendering the prosecution version doubtful. Learned counsel further submits that the question of conscious possession is highly debatable in the facts and circumstances of the present case. He further submits that the petitioner is in custody for the last 02 years, 01 month and 25 days and is not involved in any other case. He, thus, prays for grant of bail to the petitioner.

4. Notice of motion.

5. Mr. Vishal Kashyap, Sr. DAG Haryana accepts notice on behalf of the State and has vehemently opposed the prayer for grant of regular bail to the petitioner on the ground of gravity of allegations. He has filed the custody certificate in the Court today and the same is taken on record. He submits that the petitioner is in custody for the last 02 years, 01 month and 25 days. He further submits that out of 17 cited prosecution witnesses, only one witness has been examined so far.

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

7. After hearing the rival contentions of the learned counsel for the parties and keeping in view the facts and circumstances of the case that the petitioner is in custody for the last 02 years, 01 month and 25 days and is not involved in any other case; the fact that only one out of 17 prosecution witnesses has been examined so far; the conclusion of trial is likely to take time and continuous detention of the petitioner would not serve the ends of justice, this Court deems it fit to grant the concession of regular bail to the

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petitioner during the pendency of the trial. Moreover, *'bail is the rule and jail is the exception'*.

8. Reference can be made to the judgment of the Hon'ble Supreme Court in the case of ***Pardeep Kumar @ Banu versus State of Punjab,*** **bearing Criminal Appeal No.1341/2026 (arising out of SLP(Cri.) No.18775/2025),** decided on 13.03.2026, wherein it has been categorically held that where the accused has remained in custody for a considerable period and the trial has not even commenced, or is not likely to conclude in the near future, therefore, continued incarceration would amount to punishment without trial. In such circumstances, further detention pending trial is not necessary and the accused is entitled to be released on bail.

9. Therefore, without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing requisite bail bonds, surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

10. Nothing discussed hereinabove shall be construed as an expression of opinion on the merits of the case.

11. It is clarified that while on bail so granted through the instant order, if the petitioner is found indulging in any other criminal case, it shall be open to the State to seek cancellation of his bail.

12. Pending miscellaneous application(s), if any, shall also stand disposed of.

(H.S.GREWAL)
JUDGE

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

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