IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-957-2025
Reserved on: 07.07.2025
Pronounced on: 23.07.2025

Shashi Bala ...Petitioner

Versus

State of Punjab …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Dinesh Mahajan, Advocate
for the petitioner.

Mr. Akshay Kumar, A.A.G., Punjab

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
78	02.07.2023	Sujanpur, District Pathankot	21/61/85 of NDPS Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. Per paragraph 12 of the bail application and 9 of the reply dated 05.07.2025 filed by the State, the accused-petitioner has massive criminal antecedents (116 FIRs).

3. The facts and allegations are taken from the reply filed by the State. On 02.07.2023, based on a chance recovery, the Police seized 280 grams of heroin and Rs.20,500 drug money from the possession of the petitioner. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and BNSS, 2023.

4. The petitioner's counsel seeks bail on the grounds of prolonged pretrial custody.

5. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

6. The State’s counsel opposes bail and refers to the reply.

7. Although petitioner has massive criminal history but all are under Excise Act and a more important fact which goes in favour of the petitioner is that she is a woman and

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given the undertaking that she will mend her ways and live like a decent human being, this Court is not considering the previous history as a reason to deny her bail.

8. As per para 4 (iii) of reply, the weight and name of drug is 280 grams Heroin.

9. The quantity allegedly involved in this case is commercial. Given this, the rigors of S. 37 of the NDPS Act apply in the present case. The petitioner must satisfy the twin conditions set forth by the Legislature under Section 37 of the NDPS Act.

10. The petitioner is entitled to bail because for the same contraband, and when the quantity involved was either more or closer to the quantity seized in the present FIR, the Hon'ble Supreme Court has granted bail on prolonged custody in the following judicial precedent:

11. In Sabat Mehtab Khan v. The State of Maharashtra, decided on 03 Sep 2024, SLP (Crl) 8557-2024, Hon'ble Supreme Court holds,

> The petitioner is an accused for the offences punishable under Sections 21(c) and 29 of the of the Narcotic Drugs and Psychotropic Substances Act and allegation is that 275 gms. and 50.01 gms of heroine has been recovered from him. His regular bail application was dismissed by the High Court. He has already undergone about 1 year six months in jail.
>
> Heard learned senior counsel/counsel for the parties.
>
> Considering the quantity of the contraband articles and the period of his incarceration, we are of the opinion that a case of bail is made out for the petitioner.

12. Per the custody certificate dated 05.07.2025, the petitioner's custody in this FIR is of 01 year, 10 months and 25 days.

13. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act[1].

14. Following the judicial precedent mentioned above, without commenting on the case's merits, and considering the petitioner's pre-trial custody, the weight of the drugs, coupled with the other factors peculiar to this case, further pre-trial incarceration would not be justified at this stage. However, this order shall take effect from the time it is uploaded to this Court's official webpage.

15. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above, subject to furnishing bonds to the

[1] Supreme Court of India, in Rabi Prakash v. The State of Odisha, SLP (Crl) 4169-2023, Para 4, decided on 13 July 2023

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satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate or duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

16. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.
3.	Mobile number (If available)
4.	E-Mail id (If available)

17. This order is subject to the petitioner's complying with the following terms.

18. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

19. Given the background of allegations against the petitioner, it becomes paramount to protect the detection squad, members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearms. [This restriction is being imposed based on the preponderance of the evidence of probability and not of evidence of certainty, i.e., beyond a reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days of release from prison and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and reclaim them in case of acquittal in this case, provided otherwise permissible under the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

20. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug abuse. In Mohammed Zubair v. State of NCT of Delhi, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No. 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of the Hon'ble Supreme Court held that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be

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proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

21. In Md. Tajiur Rahaman v. The State of West Bengal, decided on 08-Nov-2024, SLP (Crl) 12225-2024, the Hon'ble Supreme Court holds in Para 7, "It goes without saying that if the petitioner is found involved in such like offence in future, the concession of bail granted to him today will liable to be withdrawn and the petitioner is bound to face the necessary consequences."

22. ***This bail is conditional, and the foundational condition is that if the petitioner commits any offence under the NDPS Act, where the quantity involved is more than half of the intermediate or commercial quantity, or violates S. 19, 24, or 27-A of the NDPS Act, then the State shall apply for cancellation of this bail before the Trial Court, which shall be eligible, authorized, and shall have the discretion to cancel this bail***.

23. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

24. A certified copy of this order is not required for furnishing bonds. An Advocate for the Petitioner can download the order from the Court's official web page and attest it as a true copy. If needed, the attesting officer can verify its authenticity online and use the downloaded copy to attest bonds.

25. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

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Whether speaking/reasoned: Yes
Whether reportable: No.

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