

CRM-M-44720-2025

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

CRM-M-44720-2025  
Reserved on: 01.09.2025  
Pronounced on: 29.09.2025

Satnam Singh Gill

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Tejinder Pal Singh, Advocate  
for the petitioner.

Ms. Pooja Nayar Sharma, DAG, Punjab.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
261	18.06.2025	City Barnala, District Barnala	21/29 of NDPS Act

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 18 of the bail petition as well as para 7G of the reply filed by the State, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	116	28.07.2023	21/29 of NDPS Act	Barnala
2	208	19.05.2022	386/506/511 IPC	Barnala
3	228	26.05.2022	341/323/148/149/506 IPC	Barnala
4	211	20.05.2022	458/427/323/148/149 IPC	Barnala
5	148	16.06.2022	336/307/387/506/120B IPC	Divn. 7, Ludhiana
6	59	2022	307/120B/325/148/149/201 IPC	Bandhani Kalan
7	363	24.08.2018	458/323/506/34 IPC	Barnala
8	66	16.02.2022	323/341/325/148/149 IPC	City Barnala
9	131	27.03.2024	52-A of Prisons Act	City Barnala
10	103	05.03.2020	341/323/506/148/149 IPC	City Barnala
11	10	14.01.2020	323/279/324/506/148/149/471 IPC	City-II, Barnala
12	385	2020	376D/384/450/506 IPC	City-II, Barnala
13	70	2020	61 of Excise Act	City Tappa
14	113	2020	307/323/341/506/148/149 IPC	Barnala

CRM-M-44720-2025

15	222	2022	341/323/427/506/148/149 IPC	Barnala
16	304	2021	323/341/148/149/201/325 IPC	Barnala

3. The facts and allegations are taken from the reply filed by the State, which reads as follows:

*“3. That present case bearing FIR No.261 dated 18.06.2025 u/s 21 of NDPS Act Police Station City Barnala was initially registered against one Chamkaur Singh son of Rohi Singh resident of Backside Rambagh, Barnala as on 18.06.2025 police party headed by SI Maghar Singh apprehended said Chamkaur Singh red handed and recovered 14 Wincerex Syrup, each containing 100 ML each vial and 90 grams heroin was recovered.*

*4. That during investigation of the case, on the basis of said disclosure statement (i) Ghukki @ Melo wife of Babbu Singh, (ii) Gaggi daughter of Veer Singh and (iii) Guddi wife of Mangal Singh were nominated as accused and offence u/s 29 NDPS Act has been added in this case, vide DDR No.36 Dated 21.06.2025. Further, accused Chamkaur Singh also disclosed that one Satti resident of Barnala, whose complete particulars are not known to him, had given him a few intoxicant syrups and heroin a few days ago.*

*5. That during investigation of the case, petitioner Satnam Singh alias Satti made an extra judicial confession before Nitin Sharma resident of KC Road Barnala that he had given a few intoxicant syrups and heroin to Chamkaur Singh few days ago. On the basis of the statement of above said Nitin Sharma, petitioner has been nominated as accused vide DDR No.48 Dated 30.06.2025.*

*6. That during investigation of the case, on 07.07.2025 accused Ghukki and Guddi were arrested by the police, whereas on 12.07.2025 accused Gaggi was also arrested by the police. Accused Ghukki and Guddi disclosed during interrogation that petitioner Satnam Singh alias Satti, resident of Sekha Road Barnala used to supply intoxicants to them through Chamkaur Singh.”*

4. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and the CrPC, 1973.

5. During the custodial interrogation, the co-accused named the petitioner as the

CRM-M-44720-2025

seller of the drugs, and based on this confession, the investigator arraigned him as an accused. The petitioner approached the Sessions Court for anticipatory bail, which was surprisingly denied.

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

7. The petitioner's counsel submits that the petitioner would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, or 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, or 24, or 27-A of the NDPS Act, the State may file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and may do so at their discretion, to which the petitioner shall have no objection.

8. The State's counsel opposes bail and refers to the reply.

9. It would be appropriate to refer to the following portions of the reply, which read as follows:

*"7. That as per FSL report Diacetylmorphine salt was found present in the recovered heroin, whereas Codeine Phosphate and Triprolidine Hydrochloride salt were found from the recovered syrups. Investigation of the case is going on, petitioner has not joined the investigation of the case, in compliance of order dated 19.08.2025.*

*A. Parcel 1.*

*90\*1gm=90gm Diacetylmorphine*

*Parcel 2.*

*1400 ml\*1.228g/ml*

*=1719.2gm Codeine Phosphate*

*Quantity of Codeine Phosphate is more than commercial Quantity*

*B. Copy of FSL report: Attached as Annexure R-1.*

*C. The evidence based on which the petitioner was arraigned as an accused: Petitioner has been arraigned as accused on the basis of extra judicial confession made before Nitin Sharma resident of KC Road Barnala."*

REASONING:

10. The quantity allegedly involved in this case is commercial. Given this, the rigors

CRM-M-44720-2025

of S. 37 of the NDPS Act apply in the present case. The petitioner must satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act.

11. In *Subodh Kumar Sagar v. The State of Bihar, Special Leave to Appeal (Crl.) 12013-2022*, decided on 15-02-2023, a three-Judge bench of the Hon'ble Supreme Court holds,

The present petition has been filed seeking pre-arrest bail in reference to FIR No. 154 of 2022 dated 17.03.2022 registered with Police Station K. Nagar (Champa Nagar), District Purniya, Division Sadar, Bihar, which was declined by the High Court by order impugned dated 29.09.2022.

While issuing notice interim protection was granted to the petitioner by order dated 02.01.2023.

FIR came to be registered against the petitioner under Sections 8(c) and 21(a) of the NDPS Act, 1985 and the offence as alleged against him is that although he is license holder to run a medical shop but recovery of 80 bottles containing 100 ml each Codeine Syrup was made from his residence which is not permissible under the law and entail penal consequences.

After hearing the learned counsel for the parties and taking into consideration the material on record and without expressing any opinion on merits/demerits of the matter, the petitioner has made out a case for grant of pre-arrest bail.

Ordered accordingly.

In the event of arrest, the petitioner shall be released on bail on furnishing security of Rs. 25,000/- along with two sureties of the like amount to the satisfaction of the Investigating Officer/Court, as the case may be. However, the petitioner is directed to cooperate in the investigation.

12. The evidence of Extra Judicial Confession is not *prima facie* probable and a doubt has crept in about its credibility, whose benefit must go to the accused.

13. For now, the petitioner has *prima facie* satisfied the first condition of section 37 of the NDPS Act to make a case for bail. Regarding the second rider of S. 37, this court will put very stringent conditions in this order to ensure that the petitioner does not repeat the offense.

14. In *Abida v. State of Haryana, 2022:PHHC:058722*, [Para 10], CRM-M-5077-2022, decided on 13-05-2022, this court observed as follows:

[10]. Thus, both the twin conditions need to be satisfied before a person accused of possessing a commercial quantity of drugs or psychotropic substance is to be released on bail. The first condition is to provide an opportunity to the Public Prosecutor, enabling to take a stand on the bail application. The second stipulation is that the Court must be satisfied that reasonable grounds exist for believing that the accused is not guilty of such offence, and is not likely to commit any offence while on bail. If either of these two conditions is not met, the ban on granting bail operates. The expression "reasonable grounds" means something more than *prima facie* grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. Even on fulfilling one of the conditions, the

CRM-M-44720-2025

reasonable grounds for believing that the accused is not guilty of such an offence, the Court still cannot give a finding on assurance that the accused is not likely to commit any such crime again. Thus, the grant of bail or denial of bail for possessing commercial quantity would vary from case to case, depending upon its facts.

[30]. From the summary of the law relating to rigors of S.37 of NDPS Act, while granting bail involving commercial quantities, the following fundamental principles emerge:

(a). In case of inconsistency, S. 37 of the NDPS Act prevails over S. 439 CrPC. [Narcotics Control Bureau v Kishan Lal, 1991 (1) SCC 705, Para 6].

(b). The limitations on granting of bail come in only when the question of granting bail arises on merits. [Customs, New Delhi v. AhmadalievaNodira, (2004) 3 SCC 549, Para 7].

(c). The provisions of Section 37 of the NDPS Act provide the legal norms which have to be applied in determining whether a case for grant of bail has been made out. [UOI v. Prateek Shukla, **2021:INSC:165 [Para 11]**, (2021) 5 SCC 430, Para 12].

(d). In case the Court proposes to grant bail, two conditions are to be mandatorily satisfied in addition to the standard requirements under the provisions of the CrPC or any other enactment. [Union of India v. Niyazuddin SK &Anr, **2017:INSC:686 [Para 7]**, (2018) 13 SCC 738, Para 7].

(e). Apart from granting opportunity to the Public Prosecutor, the other twin conditions which really have relevance are the Court's satisfaction that there are reasonable grounds for believing that the accused is not guilty of the alleged offence. [N.R. Mon v. Md. Nasimuddin, (2008) 6 SCC 721, Para 9].

(f). The satisfaction contemplated regarding the accused being not guilty has to be more than prima facie grounds, considering substantial probable causes for believing and justifying that the accused is not guilty of the alleged offence. [Customs, New Delhi v. Ahmadaliev Nodira, (2004) 3 SCC 549, Para 7].

(g). The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. [State of Kerala v. Rajesh, **2020:INSC:88 [Para 21]**, AIR 2020 SC 721, Para 21].

(h). Twin conditions of S. 37 are cumulative and not alternative. [Customs, New Delhi v. Ahmadaliev Nodira, (2004) 3 SCC 549, Para 7].

(i). At the bail stage, it is neither necessary nor desirable to weigh the evidence meticulously to arrive at a positive finding as to whether or not the accused has committed an offence under the NDPS Act and further that he is not likely to commit an offence under the said Act while on bail. [Union of India v. Rattan Mallik @ Habul, (2009) 2 SCC 624, Para 14].

(j). If the statements of the prosecution witnesses are believed, then they would not result in a conviction. [Babua v. State of Orissa, (2001) 2 SCC 566, Para 3].

CRM-M-44720-2025

(k). Merely recording the submissions of the parties does not amount to an indication of a judicial mind or a judicious application of mind. [UOI v. Prateek Shukla, **2021:INSC:165 [Para 11]**, (2021) 5 SCC 430, Para 12].

(l). Section 37 departs from the long-established principle of presumption of innocence in favour of an accused person until proved otherwise. [Union of India v. Sanjeev v. Deshpande, (2014) 13 SCC 1, Para 5].

(m). While considering the application for bail concerning Section 37, the Court is not called upon to record a finding of not guilty. [Union of India v. Shiv Shanker Kesari, (2007) 7 SCC 798, Para 11].

(n). The confessional statement recorded under Section 67 of the NDPS Act is inadmissible in the trial of an offence under the NDPS Act. [Tofan Singh v. State of Tamil Nadu, **2020:INSC:620**, (2021) 4 SCC 1]

(o). In the absence of clarity on the quantitative analysis of the samples from the laboratory, the prosecution cannot be heard to state at this preliminary stage that the accused possessed a commercial quantity of psychotropic substances as contemplated under the NDPS Act. [Bharat Chaudhary v. Union of India **2021:INSC:877 [Para 11]**, 2021 SCC OnLine SC 1235, Para 10].

(p). When there is evidence of conscious possession of commercial quantity of psychotropic substances, such accused is not entitled to bail given Section 37 of the Act as contemplated under the NDPS Act. [State by (NCB) Bengaluru v. Pallulabid Ahmad Arimutta, **2022:INSC:26 [Para 11]**, 2022 SCC OnLine SC 47, Para 12].

(p). Bail must be subject to stringent conditions. [Sujit Tiwari v. State of Gujarat, **2020:INSC:101 [Para 12]**, 2020 SCC Online SC 84, Para 12].

[31]. Satisfying the fetters of S. 37 of the NDPS Act is candling the infertile eggs. The stringent conditions of section 37 placed in the statute by the legislature do not create a bar for bail for specified categories, including the commercial quantity; however, it creates hurdles by placing a reverse burden on the accused, and once crossed, the rigors no more subsist, and the factors for bail become similar to the bail petitions under general penal statutes like IPC.

15. The law of bail, like any other branch of law, has its own philosophy, and occupies an important place in the administration of justice and the concept of bail emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal.<sup>1</sup> Personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the

<sup>1</sup> Supreme Court of India in Vaman Narain Ghiya v. state of Rajasthan, [E-SCR] ; [2008] 17 SCR 369, Para 16, decided on 12.12.2008.

CRM-M-44720-2025

case.<sup>2</sup> Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the curial power to negate it is a great trust exercisable, not casually, but judicially with lively concern for the cost to the individual and the community.<sup>3</sup>

16. The evidence collected might be prima facie sufficient to launch prosecution or even to frame the charges; however, for the purpose of denying bail, the evidence is insufficient.

17. Given the penal provisions invoked, the legal admissibility of evidence collected against the petition, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or pre-trial incarceration.

18. Given the above, without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for anticipatory bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

19. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

CONDITIONS:

20. 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 satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

21. 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)	

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

23. *The petitioner is directed to join the investigation within seven days of uploading*

<sup>2</sup> Supreme Court of India in Siddharam Satlingappa Mhetre v. State of Maharashtra, SC 2J [E-SCR], Paragraph 127, decided on 02.12.2010.

<sup>3</sup> Supreme Court of India in Babu Singh & ors v. State of UP, [E-SCR] P. 777, decided on 31.01.1978.

CRM-M-44720-2025

this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

24. 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.

25. 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 from today 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 it is otherwise permissible under the concerned rules. Restricting firearms would instill confidence in society; it would also restrain the accused from influencing the witnesses and repeating the offense.

26. 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 Hon'ble Supreme Court holds 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 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."

27. In case the Investigator/Officer-In-Charge of the concerned Police Station

CRM-M-44720-2025

arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

28. In *Md. Tajiur Rahaman v. The State of West Bengal*, decided on 08-Nov-2024, SLP (Crl) 12225-2024, 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."

29. This bail is conditional, with the foundational condition being that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, or commits any offence under the NDPS Act, where the quantity involved is more than half of the intermediate, or commercial, or violates S. 19, or 24, or 27-A of the NDPS Act, the State shall file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and as per their discretion, they may cancel this bail.

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

31. It is clarified that this bail order shall not be considered as a blanket bail order in any other matter and is only limited to granting bail in the FIR mentioned above.

32. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Appellant-Accused can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

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

(ANOOP CHITKARA)  
JUDGE

29.09.2025  
anju rani

Whether speaking/reasoned: Yes  
Whether reportable: No.