

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

**CRM-M-24003-2025 (O&M)**

Reserved on: 07.07.2025

Pronounced on: 15.07.2025

Kaushal Alias Kaushal Yadav

.....Petitioner(s)

Versus

Narcotic Control Bureau Chandigarh

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA**

Present: Mr. Ankur Lal, Advocate  
for the petitioner(s)

Mr. Utsav Bains, Special Public Prosecutor  
for the NCB (through VC).

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**ANOOP CHITKARA, J. (Oral)**

| NCB Crime No. | Dated      | Police Station | Sections                               |
|---------------|------------|----------------|--|
| 54/2022       | 23.08.2022 | NCB Chandigarh | 8, 20, 25, 28, 29, 60 & 62 of NDPS Act |

1. This is third petition filed by the petitioner in the FIR captioned above under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In para 10 of the bail petition, accused declares that he has no criminal antecedents.
3. The facts and allegations are taken from the status report filed by the NCB, which reads as under:

“8. That the brief facts of the case are that secret information was received by Intelligence Officer Rajneesh that Shivam, Kaushal Yadav, Lavish and Kabir were bringing a consignment of Charas from Kasol, Himachal Pradesh in Baleno car bearing registration number HR-12AP-5515 and would pass through Toll Barrier, Kurali between 09:00 pm to 10:00 pm. The Superintendent, NCB Smt. Meera Kumari authorised a team led by Sandeep Singh, Intelligence Officer, for taking action. On the basis of information, a team of NCB officials so constituted recovered 01.114 KGs of Charas from the conscious possession of accused named above. The Charas was recovered from a cavity in the speaker box in the boot (dicky) of the car. The recovery was made in the presence of two Independent witnesses namely ASI Teluram, belt no. 911 and ASI Mohan Lal, belt no. 895R from PS Singh Bhagwantpura. The accused were travelling with Lakshya Chanana friend of one of the accused.

At around 21:20 hrs the said vehicle as given in secret information reached Toll Barrier Solkia, Distt. Roopnagar, (Punjab) which was stopped by NCB team members. After that NCB team associated two police personals as independent witnesses. The persons sitting Inside the vehicle introduced themselves as Shivam S/o Suresh Kumar Nandal, R/o H.no. 411/30, Dev Colony, Rohtak, Haryana, Kaushal S/o Sukhram Pal, R/o H.no. 1935, Maruti Colony, Bhandgi, Gurugram, Haryana, Lavish S/o Man Singh Kamboj, R/o 674, Sec 13, Urban Estate, Karnal, Haryana, Kabir S/o Raj Singh, R/o 65, Sector 32, Karnal, Haryana and Lakshya S/o Lalit Channa, R/o H.No.112, Sector 68, Mohali, Punjab.

9. That the search of the vehicle was done in presence of all accused and independent witnesses which resulted in seizure of 01.114 Kg of Charas from specially designed speaker of the Maruti Baleno car registration no. HR12AP 5515. The vehicle Maruti Baleno car registration no HR12AP 5515 used in transportation was also seized along with the contraband. A crime case vide NCB Crime No. 54/2022 dated 23.08.2022 has been registered U/s 8, 20, 29 & 60 of NDPS Act, 1985. The process of Seizure, Sealing, RCM and Panchnama completed at about 2345 hrs on dated 23.08.2022.

10. That the Seized contraband i.e. LOT-A, LOT-B, LOT-C LOT-D, LOT-P and LOT-P1 and seized vehicle Maruti Baleno car bearing Regn. No. HR12AP 5515 were deposited with NCB Malkhana.”

4. The petitioner's counsel submits that petitioner has been falsely implicated and he is in custody since 23.08.2022 and further incarceration would cause an irreversible injustice to the petitioner and their family. He further submits that the other co-accused have already been granted bail by this Court. He prays for bail and has no objection to imposing any stringent conditions.

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

#### REASONING:

6. 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 put in place by the Legislature under Section 37 of the NDPS Act.

7. As per paragraph 3(V) of the petition, petitioner is in custody since 23.08.2022 and his total custody in this FIR is more than 02 years & 10 months.

8. 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<sup>1</sup>.

9. The petitioner is entitled to bail based on *Dheeraj Kumar Shukla v. The State of*

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

Uttar Pradesh [SLP (CrI) 6690-2022], decided on 25 Jan 2023. Dheeraj Shukla would be attracted when the three conditions are fulfilled,

- (a). The custody of more than two years and six months and the delay was not attributable to the accused.
- (b). The trial is at an initial stage.
- (c). The petitioner is the first offender.

10. Considering the quantity involved and the pre-trial custody, Section 37 of the NDPS Act would not be attracted.

11. Given the penal provisions invoked viz-a-viz pre-trial custody, 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 further pre-trial incarceration at this stage.

12. 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 bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

CONDITIONS:

13. 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 concerned Court and due to unavailability before any nearest Ilaqa Magistrate/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.

14. 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)   |  |

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

16. 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.

17. Given the background of allegations against the petitioner, it becomes paramount to protect the members of society, detection squad 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.

18. 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."

19. 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."

20. ***This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Trial Court, which shall be at liberty to cancel this bail.***

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

22. The concerned Judicial Magistrate/ Trial Court is authorized to delete, modify, or relax any of the conditions mentioned above and is competent to do so following the law.

23. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner 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.

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

15-07-2025  
AK

**(ANOOP CHITKARA)**  
**JUDGE**

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO