

CRM-M-34687-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34687-2025
Reserved on: 05.08.2025
Pronounced on: 22.08.2025

Rajiv Jain ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Ms. Pooja Nayar Sharma, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
30	12.02.2024	Gharinda, Amritsar	21/23/25/27A/27/29 of NDPS Act, 307 IPC and 25/27/54 of Arms 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. In paragraph 15 of the bail petition, the petitioner declares that he has no criminal antecedents.
3. The facts and allegations are taken from the reply filed by the State. On 12.02.2024 based on prior information, police laid Naka to nab the co-accused, as and when investigator tried to stop them, they tried to run over their car on the police official and after that police party succeeded to nab them and on search, the Police seized 2 kg heroin from the dashboard of a car, in which co-accused Sukhdev Singh and Sarwan Singh were travelling. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and the CrPC, 1973. During the investigation, the petitioner was arraigned as an accused, and a recovery of Rs. 8 Lacs 50 thousand was effected from his car, and Rs. 22,35,500/- cash and a cash counting machine were recovered from his house.
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

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petitioner and their family. Counsel further 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.

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

7. It would be appropriate to refer to following portion of the reply which reads as follows: -

"The evidence based upon which the petitioner was arraigned as an accused:

7. That during the investigation, the co-accused Vishal suffered an another disclosure statement disclosing therein that he used to give all the money, which he earns from selling heroin, to the petitioner who had an Alto Car No.PB02-CV-0223 and he used to meet him (petitioner) near Parvati Devi Hospital, Amritsar. On the basis of the aforesaid disclosure statement, the petitioner was nominated in the present case vide G.D. No.27 dated 19.02.2024.

x x x x x

9. That it is pertinent to mention that the co-accused Anokh Singh and Gurpreet Singh were also arrested at the instance of the petitioner and an amount of Rs.25,40,550/- was recovered from the Scorpio Car of Anokh Singh and Gurpreet Singh.

Role of the petitioner

10. That as per the prosecution version, the petitioner is actively involved in smuggling heroin along with the other co-accused. It is humbly submitted that no intoxicant substance has been recovered in the present case from the petitioner but a drug money of Rs.8 lakh 50 thousand and Rs.22,35,500/- and cash counting machine has been recovered from the petitioner."

REASONING:

8. The absence of injuries would be a factor in granting bail after considering all of

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the allegations.

9. As per para 13 of the reply, the total weight of the heroin is 4 kg 400 grams, and a massive amount of drug money was also recovered.

10. 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.

11. According to the reply, no intoxicating substance has been recovered from the petitioner in the present case, but drug money of Rs. 5 lakh and Rs. 22,35,500/- had been recovered from the petitioner.

12. The petitioner is entitled to bail because, for the same drug, 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:

13. In *Dambarudhar Pangi v. State of Orissa*, CrA No. 5298-2024, decided on 13-12-2024, the Hon'ble Supreme Court holds,

The appellant is charged under Section 20(b)(ii)(C) and Section 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985, It is submitted that the appellant has already undergone one year and seven months' incarceration. Only six out of 18 witnesses have been examined. There are no prior criminal antecedents in which the appellant is said to be involved. Taking into consideration the period of incarceration and that the trial is likely to take some time to conclude, we are inclined to grant bail to the appellant.

14. Per the custody certificate dated 04.08.2025, the petitioner's custody in this FIR is of 01 year, 05 months & 11 days.

15. 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 Act¹.

16. 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, there is no injury on the person of police official, petitioner was named based on disclosure statement and only alleged drug money was received from the petitioner and coupled with the other factors peculiar to this case, further pre-trial incarceration is not justified at this stage. However, this order shall take effect from the time it is uploaded to

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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this Court's official webpage.

17. 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:

18. 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 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.

19. 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)

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

21. 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.

22. Given the background of allegations against the petitioner, it becomes paramount to protect the members of society, and detection squad and incapacitating the accused would be one of the primary options until the filing of the closure report, 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 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 society; it would also restrain the accused from influencing the witnesses and repeating the offense.

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23. 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 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."

24. 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."

25. The significant consideration for granting bail is that the Court aims to give the petitioner another chance to course-correct, reform, and reintegrate into the community as an ideal citizen. To ensure that the petitioner also abides by the assurance made on the petitioner's behalf by not repeating the offence or indulging in any crime, it shall be desirable to impose the following additional condition.

26. This bail is conditional, with the foundational condition being that if the petitioner repeats the offense where the quantity involved is more than half of the intermediate, or commercial, or violates S. 19, 24, or 27-A of the NDPS Act, or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, 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.

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

28. In *Amit Rana v. State of Haryana*, CRM-18469-2025 [in CRA-D-123-2020, decided on 05.08.2025], a Division Bench of Punjab and Haryana High Court in paragraph 13, holds that "To ensure that every person in judicial custody who has been granted bail or whose sentence has been suspended gets back their liberty without any delay, it is appropriate that whenever the bail order or the orders of suspension of sentence are not immediately sent by the Registry, computer systems, or Public Prosecutor, then in such a situation, to facilitate the immediate restoration of the liberty granted by any Court, the downloaded copies of all such orders, subject to verification, must be accepted by the Court before whom the bail bonds are furnished."

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

(ANOOP CHITKARA)
JUDGE

22.08.2025

anju rani

Whether speaking/reasoned: Yes

Whether reportable: No.