



CRM-M-29546-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29546-2025
Date of Decision: 31.07.2025

Krishan Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Pushpinder Kaur, Advocate
for the petitioner.

Mr. Jasdev Singh Thind, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0009	04.03.2025	Payal, District Khanna	22 of NDPS Act and 111(2) BNS

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 15 of the bail application and paragraph 15 (E) of short reply, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	120	06.08.2020	15 of NDPS Act	Payal
2.	148	27.06.2021	15, 29 of NDPS Act	Lehra
3.	26	15.02.2024	22 of NDPS Act	Sadar Khanna

3. The facts and allegations are taken from the short reply filed by the State. On 04.03.2025, based on a chance recovery, the Police seized 80 tablets containing Clonazepam from the petitioner's possession. 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.



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6. 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 Special Judge or Sessions 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.

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

REASONING:

8. It shall be appropriate to extract paragraph no. 7 of the short reply dated 30-07-2025, which reads as follows:

"7. That thereafter a valid offer was given to all of them, to get their search conducted in the presence of some Gazetted officer or Magistrate. Thereupon, the said accused posed faith on the investigating officer. Thereafter, ASI Hardam conducted the personal search of all the accused, along with the search of their personal belongings, i.e. the polythene bag they had discarded. Upon searching accused Manish Kumar, Krishan Kumar @ Gauri no cash or drug money was recovered from both of them. Upon searching accused Gurdeep Singh @ Deepu cash Rs. 2000/- drug money was recovered, which he later accepted that he had sold 4 strips of intoxicant tablets to Manish Kumar Tandon and Krishan Kumar @ Gauri. Upon opening the said bag recovered from Manish Kumar Tandon, Zapiz-0.25 tablets whose salt was Clonazepam were recovered. On counting, a total of 02 strips, each containing 20 tablets, amounting to 40 intoxicant tablets, having batch number K-2400542, were found."

9. As per para 11 of the short reply, the name of the drug is Clonazepam, and its weight is 3.16 grams.

10. 3.16 grams of Clonazepam is an offence under the NDPS Act in the following terms:

Substance Name	CLONAZEPAM
Quantity detained	3.16 Gram
Quantity type	Small



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<i>Drug Quantity in % to upper limit of Intermediate</i>	3.16%
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<i>Drug's Small & Commercial Qty. suggested by Committee report</i>	
<i>Notification No. & date</i>	Expert Committee Report dated 24.03.1995 & 23.08.2001 (Small and Commercial)

<i>Specified as small & Commercial in S.2(viia) & 2(xxiii) NDPS Act, 1985</i>		
<i>Notification No. & dated</i>	S.O.1055(E)	10/19/2001
<i>Sr. No.</i>	189	
<i>Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN))</i>	CLONAZEPAM	
<i>Other non-proprietary name</i>	*****	
<i>Chemical Name</i>	5-(o-chlorophnyl)-1,3-dihydro-7-nitro-2H-1,4-benzodiazepin-2-one	
<i>Small Quantity</i>	< 5 Gram	
<i>Commercial Quantity</i>	> 100 Gram	

<i>Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) & 2(xxiii) NDPS Act, 1985</i>		
<i>Notification No. & dated</i>	NDPS Act, 1985 (61 of 1985), S.O. 821(E)	11/14/1985

<i>Sr. No.</i>	38	
<i>Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN))</i>	CLONAZEPAM	
<i>Other non-proprietary name</i>	*****	
<i>Chemical Name</i>	5-(o-Chlorophenyl)-1, 3-dihydro-7-nitro-2H-1, 4-benzodiazepin-2-one	

11. Given the above, the 3.16 grams of Clonazepam fall in Small Quantity, which is a bailable offence.



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12. Per custody certificate dated 30.07.2025, the petitioner's custody in present FIR is 04 months and 23 days.

13. In Kuldeep Singh alias Keepa v. State of Punjab, CRM-M-60671-2024, Neutral Citation no. 2024-PHHC-170456, Decided on: 18.12.2024, this Court holds,

[83]. Consequently, when the contravention under the NDPS Act involves 'Small Quantity', the offences are 'Bailable'. When the drug quantity falls in small category, the offence is bailable by operation of BNSS, 2023. Thus, any person accused of such an offence is entitled to bail without filing any bail application, subject to furnishing the requisite bail bonds.

14. Resultantly, the order dated 23-04-2025 passed by the Special Court, Ludiana, in PBLD010069682025, is set aside. The petitioner is ordered to be released on personal bonds subject to the satisfaction of the Trial Court/ Concerned Illaqa Magistrate.

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

(ANOOP CHITKARA)
JUDGE

31.07.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: **YES.**