

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

CRM-M-29405-2025  
Reserved on: 08.07.2025  
Pronounced on: 31.07.2025

Vijay Singh @ Vijay @ Vicky ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Balbir Kumar Saini, Advocate  
for the petitioner.

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

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0083	24.04.2025	City Moga, District Moga	21, 29, 61, 85 of NDPS Act (Section 29 of NDPS Act added later on)

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. Per paragraph 21 of the bail application and paragraph 9 of the status report, petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	91	22.04.2018	22 of NDPS Act	City South Moga
2.	60	04.03.2018	22 of NDPS Act	City South Moga
3.	122	28.07.2015	22 of NDPS Act	City South Moga
4.	37	25.02.2025	15/18/20/21/22 of NDPS Act	-
5.	10	05.03.2020	21 of NDPS Act	Mehna
6.	20	03.02.2020	21/22/25 of NDPS Act	City Moga
7.	192	21.09.2019	21/22 of NDPS Act	City Jagraon
8.	121	15.06.2024	447/506/120-B IPC	City Moga
9.	179	16.08.2023	21 of NDPS Act	City Moga

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

*“4. That brief facts of the case are that on 24.04.2025 a police party*

*of CIA Staff, Moga headed by Sukhwinder Singh ASI alongwith laptop and printer was present near bridge situated at Kotkapura Bypass, Moga, in connection with patrolling and checking of suspected persons, then special informer came there and informed that (i) Jagmeet Singh @ Boola son of Kuldip Singh resident of village Dune Ke now residing at Zira Rod, Moga and (ii) Manish Kumar @ Mani son of Rajinder Kumar resident of Patti Malo Ki, Moga are habitual to sell heroin and they are present at T-Point Dusanjh Road, Moga, near Sacret Heart School, Moga on motorcycle No. PB29AB-4359 and are waiting for customers to sell heroin. In case, raid is conducted, then he can be apprehended red handed and from their possession heroin can be recovered. On the basis of said information ASI Sukhwinder Singh sent ruqa and got registered the present case.*

*5. That on the basis of said information police party reached at the place, informed by the informer and found that two persons who were sitting on motorcycle Deluxe bearing No. PB29AB4359 were present there and on seeing the police party the person who was sitting on pillion seat thrown the plastic polythene which was holding by him in his right hand, on the ground. ASI Sukhwinder Singh with the help of police apprehended both of them. On enquiry the person sitting on pillion seat of the motorcycle disclosed his name as Jagmeet Singh @ Boola son of Kuldip Singh resident of village Dune Ke now residing at Zira Rod, Moga and driver of the motorcycle disclosed his name as Manish Kumar@ Mani son of Rajinder Kumar resident of Patti Malo Ki, Moga. On enquiry Jagmeet Singh disclosed that there is heroin in the plastic polythene which was thrown by him on the road. Then ASI Sukhwinder Singh introduced himself to said Manish Kumar and Jagmeet Singh and also apprised them that he is having doubt that there is some intoxicant substance in their possession, so search of themselves and their motorcycle is to be conducted, but they have legal right to get the search conducted in presence of any gazetted officer or any magistrate. Then both of them replied that they were possessing heroin, which has already been thrown by Jagmeet Singh on the road and except this they are not in possession of any other intoxicant substance, even then ASI Sukhwinder Singh can conduct the search of themselves and their motorcycle. In this regard, ASI Sukhwinder Singh issued notices u/s 50 of NDPS Act to said Manish Kumar and Jagmeet Singh.*

*6. That ASI Sukhwinder Singh measured the weight of heroin which was thrown by accused and same was found 100 grams. Parcel of recovered heroin was prepared by ASI Sukhwinder Singh with his seal SS and sample seal was prepared separately.*

*7. That during investigation of the case, on 26.04.2025 accused Manish Kumar and Jagmeet Singh disclosed that heroin which has been recovered from their possession, was purchased by them from Vijay @ Vicky son of Nirmal Singh resident of Ward No.2, Street no.13, Guru Ram Dass Nagar, Moga (Petitioner) and they have to further sell the same to Rahul son of Nchhattar resident of La Singh Road, Moga and Shashi son of Bawa resident of Sadhan Wali Basti, Moga. On the basis of said disclosure statement petitioner Vijary @ Vicky, Rahul and Shashi have been nominated as accused and offence u/s 29 of NDPS Act has been added in this case vide DDR No. 6 Dated 26.04.2025.”*

4. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and BNSS, 2023.

5. During custodial interrogation, the co-accused, Manish Kumar and Jagmeet Singh, confessed before the Police officer that they have purchased the drugs from the petitioner. Based on such confession before the police, the petitioner was arraigned as an accused. Apprehending arrest, he filed for anticipatory bail from the Sessions Court, which denied him bail. Feeling aggrieved, he has invoked the concurrent jurisdiction of this Court under S. 482 BNSS, 2023.

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 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.

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

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

*“8. Role of the petitioner: Petitioner has been nominated as accused in the present case, on the basis of disclosure statement of Manish Kumar and Jagmeet Singh, as both of them were apprehended red handed and from their possession 100 grams heroin was recovered.”*

10. Given the quantity involved, the rigors of S. 37 of the NDPS Act do not apply in the present case.

11. Section 2 (vii-a) of the NDPS Act defines commercial quantity as greater than the quantity specified in the schedule. Section 2 (xxiii-a) defines a small quantity as a quantity less than the quantity specified in the table of the NDPS Act. The remaining quantity falls in an undefined category, generally called an intermediate quantity. All sections in the NDPS Act specify an offence and mention the minimum and maximum sentence, depending upon the quantity of the substance. The commercial quantity mandates a minimum sentence of ten years of imprisonment and a minimum fine of

Rupees One hundred thousand, and bail is subject to the riders mandated in S. 37 of the NDPS Act. When the quantity is less than commercial, the restrictions of Section 37 of the NDPS Act will not attract, and the factors for bail become similar to the offence regular statutes.

12. The evidence collected so far consists of disclosure statements. Such statements can be proven subject to the mandatory restrictions imposed in S. 25 & 26 of the Indian Evidence Act, 1872/ S. 23 of BSA, 2023.

13. Although there is massive criminal history which point out towards petitioner's involvement but the evidence in the present case is only in the shape of disclosure statement and given the undertaking of the petitioner, this Court deems it appropriate to afford him final chance.

14. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

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

16. Given the penal provisions invoked, the legal admissibility of evidence collected against the petitioner, 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.

17. 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.

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 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.

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. The bail order is subject to the petitioner's complying with the following terms.

21. The petitioner is directed to join the investigation within seven days of uploading 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, 1872/ Section 23 of BSA, 2023. 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.

22. 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 the uploading of this order on the official webpage of this Court 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 the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

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

24. 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."

25. ***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 Special Judge/ Sessions 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.***

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

27. 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.

28. **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: No.