

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-47056-2025  
Reserved on: 08.09.2025  
Pronounced on: 30.09.2025

VIKAS KUMAR

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Choudhary, Advocate for the petitioner.

Dr. Jasmine Gill, AAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
271	04.09.2024	Sadar Tohana, District Fatehabad	22(c) of NDPS Act (Section 27(A) of NDPS Act added later on)

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 24 of the bail application and para 15(E) of the reply, the petitioner has no criminal antecedents.

3. The facts and allegations are taken from the reply filed by the State. On 01-09-2025, based on prior information, the Police seized 100 strips of tramadol tablets from the possession of co-accused Kulwinder Singh @ Kalu and Janak Singh @ Kokli. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973.

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

5. The petitioner's counsel seeks bail on the grounds of prolonged pretrial custody.

6. 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.

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.

**REASONING:**

9. It would be appropriate to refer to the evidence collected against the petition, which is taken from the reply, which reads as follows:

**C. The evidence against the petitioner:**

*(i) That the petitioner-accused Vikas Kumar was found to be in frequent telephonic contact with co-accused Kulwinder Singh alias Kalu (who was apprehended on the spot) and co-accused Mandeep alias Dholu (who had supplied the contraband to the petitioner). The relevant Call Detail Records substantiating this fact are annexed herewith as Annexure R-4 and Annexure R-5 for the kind perusal of this Hon'ble Court.*

*ii) That during investigation, it has been ascertained that the Customer Application Form (CAF) ID of mobile number 99962-07XXX stands registered in the name of the petitioner-accused Vikas Kumar, thereby conclusively establishing his ownership and use of the said mobile connection.*

*(iii) That during the course of investigation, it has been ascertained from the bank account records that the petitioner-accused Vikas Kumar had transferred an amount of ₹10,000/- to the account of co-accused Mandeep alias Dholu on 03.09.2024, towards consideration for the purchase of contraband. True copy of relevant statement is annexed herewith as Annexure R-6.*

**THE ROLE OF THE PETITIONER:**

*That there are serious and specific allegations against the petitioner-accused Vikas Kumar, as he had supplied a huge commercial quantity of contraband, i.e., 90 strips of Tramadol Hydrochloric SR Tablets IP-100 mg (each strip containing 10 tablets, totalling 900 tablets, weighing 527 grams),*

*to co-accused Kulwinder Singh alias Kalu and Janak Singh alias Kokli. The aforesaid narcotic tablets were subsequently recovered from the possession of the said co-accused. Furthermore, the Call Detail Records as well as the bank transaction of the petitioner-accused establish his close nexus with co-accused Mandeep alias Dholu, from whom he had procured the recovered contraband.”*

10. In *Tofan Singh v. State of Tamil Nadu*, (2021) 4 SCC 1, the majority view of a three-member bench holds as follows:

We answer the reference by stating:

(i) That the officers who are invested with powers under section 53 of the NDPS Act are “police officers” within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.

(ii) That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act.

11. The status report filed by the police reveals that the investigator arraigned the petitioner as an accused based on the disclosure statement of the main accused, from whose possession the investigator had recovered the contraband. No other evidence is collected at this stage to connect the petitioner with the main accused.

12. As per paragraph 15 A of the reply, the name of the contraband is Tramadol and its weight is 527 grams.

13. Dealing in 527 grams of Tramadol in contravention of the NDPS Act, 1985, constitutes an offense under the following provisions and notifications:

Substance Name	Tramadol
Quantity detained	527 Gram
Punishable U/s	S.22(c) of NDPS Act, 1985
Quantity type	Commercial
Drug Quantity in % to upper limit of Intermediate	210.80%

Drug's Small & Commercial Qty. suggested by Committee report	
Notification No. & date	S.O. 1762 (E) dated 26.04.2018

<i>Specified as small &amp; Commercial in S.2(viia) &amp; 2(xxiii) NDPS Act, 1985</i>		
Notification No. & dated	S.O.1762(E)	4/26/2018
Sr. No.	238 ZH	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	Tramadol	
Other non-proprietary name	*****	
Chemical Name	*****	
Small Quantity	< 5 Gram	
Commercial Quantity	> 250 Gram	

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Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) & 2(xxiii) NDPS Act, 1985		
Notification No. & dated	S.O.1761(E) & S.O. 3448(E)	26-Apr-2018 & 26-Jul-2018

Sr. No.	110Y	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	Tramadol	
Other non-proprietary name	*****	
Chemical Name	*****	

14. 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.

15. Per the custody certificate dated 28.08.2025, the petitioner's custody in this FIR is of 11 months and 13 days.

16. 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>.

17. The petitioner is entitled to bail because, in somewhat similar cases where the quantity involved was either greater than or close to the amount seized in the current FIR, the Hon'ble Supreme Court has granted bail after prolonged custody, as demonstrated by the following judicial precedent.

18. In *Junaid Alam v. State of Uttarakhand*, decided on 12 Aug 2024, SLP(Crl.) 7708-2024, Hon'ble Supreme Court holds,

[2]. It is pointed out that the petitioner has been in custody for last more than 18 months since he was arrested on 25.01.2023. It is then submitted that only 3 out of the 10 cited prosecution witnesses have been examined and they have not said anything to connect the petitioner with the crime.

[3]. The learned counsel for the State would submit that the concerned Contraband are medicinal drugs but they are sold for profit. Moreover, it is of commercial quantity.

[4]. We have perused the nature of the Contraband i.e., the prohibited medicines (SYP Codectus 100 Bottles (100 Ml each), Cap Pyeevon Spas Plus 720 Cap Parvion Spas 800 Capsules, Spasonof NF 960 capsules, Capsules Spasmoproxyvon Plus 144, Proxywell Spas 2568 Capsules, Alprasaft Table 600 Tablets, Pyeevon Spas Plus 32 Capsules).

[5]. Having considered the above and the fact that the trial is unlikely to conclude on a near date, we are of the view that the petitioner – Junaid Alam deserves to be granted bail. It is ordered accordingly. Appropriate bail conditions be imposed by the trial court.

19. Following the judicial precedent mentioned above, period of custody and petitioner named on the basis of disclosure statement, without commenting on the case's merits, and considering the petitioner's pre-trial custody, the weight of the drugs, 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 this Court's official webpage.

**CONDITIONS:**

20. Given the 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, with or without sureties, with a maximum bond amount not to exceed INR 25,000.

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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

21. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, the surety is capable of producing the accused. However, instead of surety, the petitioner may provide a fixed deposit of INR 25,000/-, with a clause that the interest shall not be accumulated in FD, either drawn from a State-owned bank or any bank listed on the National Stock Exchange and/or Bombay Stock Exchange, in favour of the “Chief Judicial Magistrate” of the concerned Sessions Division; or a fixed deposit made in the name of the petitioner, with similar terms and with endorsement from the banker stating that the FD shall not be encumbered or redeemed without the permission of the concerned trial Court, or until the surety bond has been discharged.

22. 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)

23. This order is subject to the petitioner’s complying with the following terms.

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 members of society, detention 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 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 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."

27. 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."

28. 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.

29. 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.

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. 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,

**CRM-M-47056-2025**

must be accepted by the Court before whom the bail bonds are furnished.”

32. Petition allowed in terms mentioned above. All pending applications, if any, are disposed of.

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

30.09.2025  
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Whether speaking/reasoned: Yes  
Whether reportable: No.