

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

**CRM-M No.2122 of 2025 (O&M)
Date of Decision: 27.05.2025**

Samandeep Singh @ Mani

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

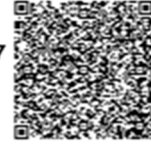
Present:- Mr. Deepak Aggarwal, Advocate for the petitioner.

Ms. Manjot Kaur, AAG, Punjab for the respondent
assisted by DSP Sukhdeep Singh.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking bail pending trial to the petitioner in FIR No.201 dated 05.12.2023, under Sections 22 (c), 15(b) & 18(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS'*), registered at Police Station Jaitu, District Faridkot.

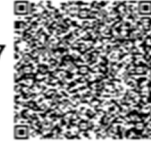
(2) Allegations are that 2500 tablets of Tramadol Hydrochloride (commercial quantity) were recovered from the conscious possession of



petitioner; whereas 17 Kg. of *Poppy Husk* (non-commercial quantity) was recovered from the boot of the Car bearing registration No.PB-04-E-2687, allegedly driven by co-accused Karamjeet Singh.

(3) Contends that petitioner is in custody since 05.12.2023; final report under Section 173 Cr.P.C. has already been presented; charges were framed on 19.07.2024, but out of total 21 prosecution witnesses, only 03 have been examined; thus, trial will take sufficient long time. Further contends that in view of the fact that two persons i.e. petitioner as well as co-accused Karamjeet Singh are stated to have been travelling in the above Car; thus, conscious possession of petitioner would be a debatable question. Again contends that co-accused, namely, Karamjeet Singh has already been granted bail pending trial by this Court vide order dated 10.01.2025 (P-3), passed in CRM-M-45206-2024.

(4) *Per contra*, learned State Counsel, on instructions from DSP Sukhdeep Singh, opposed the prayer while making reference to the affidavit dated 09.01.2025, filed in CRM-M-45206-2024 and submitted that it is the petitioner, who was carrying the contraband in his lap. Again submitted that recovery of 2500 tablets of Tramadol Hydrochloride (commercial quantity) was effected from the conscious possession of petitioner; thus, bar of Section 37 (1)(b)(ii) of NDPS Act would apply. Custody Certificate dated 26.05.2025 of the petitioner has been produced and which is taken on record.



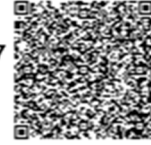
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(5) Heard learned Counsel for the parties and perused the paper-book.

(6) In CRM-M-45206-2024 [filed by the co-accused, namely, Karamjeet Singh, decided on 10.01.2025 (P-3)], an affidavit was filed by the DSP Sukhdeep Singh, Sub Division Jaitu, District Faridakot and in para 3(c) thereof, *inter alia*, averred as under:-

“3(c) That answering deponent inquired about the circumstances and introduced himself to the suspected. Answering deponent again served the three suspected with notice u/s 50 NDPS Act separately and all the them gave their written consent to take their search. The search of the polythene found in the lap of Samandeep Singh was led to the recovery of 250 strips of Tramadol Hydrochloride Tablets 100 mg bearing B.No. AT-23/578 each strip was containing 10/10 tablets total 2500 tablets. Further the Car bearing No. PB-04E-2687 was searched in the presence of its driver-Karamjeet Singh (present petitioner) and found a bag from its boot which was containing poppy husk weighing 17 kg including bag which were seized along with swift car No.PB-04AE2687 vide memo.”

(7) Upon perusal of above extract, *prima facie*, it is discernible that petitioner was carrying alleged contraband (commercial quantity) in his lap; thus, at this stage, petitioner cannot derive any benefit on the premise that conscious possession would be a debatable question; nor he can claim parity



with co-accused-Karamjeet Singh, who was granted bail vide order dated 10.01.2025 (P-3).

(8) Apart that, it is relevant to extract the provisions of Section 37 of the NDPS Act and the same read as under:-

Section 37 of the NDPS Act – Offences to be cognizable and non-bailable.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

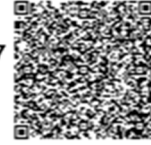
(b) no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.”

(9) Aforesaid Section, which is in the nature of non-obstante clause to Cr.P.C. including Section 439 thereof, *inter alia*, lays down that no person accused of an offence involving commercial quantity shall be released on bail unless the Court is satisfied that there are reasonable grounds for



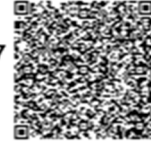
believing that he is not guilty of such an offence and not likely to commit any offence while on bail.

(10) Both the above conditions are cumulative and not alternative. The law is well settled that requirement of satisfaction in terms of Section 37 (1)(b)(ii) (*ibid*) regarding the accused being not guilty is to be recorded on the basis of reasonable grounds and that should be more than *prima facie*.

(11) Also necessary to mention here that twin-test stipulated under Section 37 of the NDPS Act was considered by Hon'ble the Supreme Court in '*Union of India Versus Rattan Malik Alias Habul*', (2009) 2 SCC 624 and para Nos.12 & 13 being relevant read as under:-

"12. It is plain from a bare reading of the non-obstante clause in Section 37 of the NDPS Act and sub-section (2) thereof that the power to grant bail to a person accused of having committed offence under the NDPS Act is not only subject to the limitations imposed under Section 439 of the Code of Criminal Procedure, 1973, it is also subject to the restrictions placed by clause (b) of sub-section (1) of Section 37 of the NDPS Act. Apart from giving an opportunity to the Public Prosecutor to oppose the application for such release, the other twin conditions viz; (i) the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence; and (ii) that he is not likely to commit any offence while on bail, have to be satisfied. It is manifest that the conditions are cumulative and not alternative. The satisfaction contemplated regarding the accused being not guilty, has to be based on "reasonable grounds".

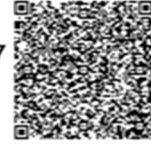
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13. *The expression “reasonable grounds” has not been defined in the said Act but means something more than prima facie grounds. It connotes substantial probable causes for believing that the accused is not guilty of the offence he is charged with. The reasonable belief contemplated in turn, points to existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence (vide Union of India v. Shiv Shanker Kesari). Thus, recording of satisfaction on both the aspects, noted above, is sine qua non for granting of bail under the NDPS Act.”*

(12) Also noteworthy that the menace of drugs has completely ruined the State of Punjab and which needs to be dealt with sternly. Hon'ble the Supreme Court in **“Parwinder Singh @ Parminder Kumar @ Vicky Versus State of Punjab”**, SLP (Crl.) 12601-2023, decided on 14.12.2023, has held as under:-

“5. Having heard learned counsel for the parties, we are of the considered view that the parameters of granting bail in a case under special statutes like NDPS Act may not be liberally construed in the instant case. We say so taking notice of the fact that the State of Punjab is reeling under the grip of drug menace. There are several drug lords whose roots are identifiable in the State of Punjab, and who operate in the cross-border drug racketing and organized trafficking of narcotic drugs and psychotropic substances. It is a matter of common knowledge that huge cache of illicit drugs is smuggled across the border. Some local Pharmaceutical Industries, State police officials and other affluent people have been suspected to be involved, at occasions, in international



drug trafficking. The drug addiction has posed a serious threat to the once vibrant state of Punjab. The Courts, therefore, ought to be highly circumspect while granting bail, especially to a repeat offender.”

(13) Since alleged recovery against the petitioner is commercial in nature; therefore, this Court is not inclined to record twin-test satisfaction in his favour as per Section 37 (1)(b)(ii).

(14) In view of the above, there is no option, except to dismiss the petition “at this stage”.

(15) Ordered accordingly.

(16) The above observations be not construed as an expression of opinion on merits of present case in any manner.

Pending application(s), if any, shall also stand disposed off.

27th May, 2025
Gagan/ Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No