

CRM-M-43681-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43681-2025
Reserved on: 09.09.2025
Pronounced on: 30.09.2025

Pankaj Kumar alias Bhura alias Bhoora ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Chandan Singh Rana, Advocate
for the petitioner.

Mr. Jatin Kundu, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
52	14.05.2025	Dhariwal, District Gurdaspur	21(b), 27-A, 29 of NDPS 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. Per the custody certificate dated 08.09.2025 and para (E) of the Status report filed by the State, petitioner has no criminal antecedents.
3. The facts and allegations are taken from the reply filed by the State, which reads as follows:

“That it is humbly submitted that the brief facts of this case are that ASI Sukhdev Singh of Police station Dhariwal was sent a ruga to SHO Police Station Dhariwal on 14.05.2025 that he alongwith Police officials were present at Tarijanagar Morh with a private vehicle, carrying 10 kits, a laptop and a printer, in connection with a naka (check post) duty. While checking vehicles, we saw a motorcycle with three young riders coming from the Gurdaspur side towards Dhariwal, He/ASI signaled them to stop with the help of his team by flashing lights. On seeing the police party the motorcycle rider suddenly panicked and tried to turn back, but we managed to stop them with the police team. The young man sitting in the was holding a black envelope in his right hand. He/ASI asked him what was inside the envelope, to which he replied that it contained intoxicating capsules and money. The young man sitting at the back was also holding a black-colored polythene in his right hand and when questioned about its contents, he stated that it

CRM-M-43681-2025

contained intoxicating tablets.

When asked to produce any permit or license regarding the same, they failed to do so. The motorcycle rider identified himself as Manish alias "Mannu son of Surinder Kumar resident of Golden Avenue Colony. On interrogation the young man sitting in the middle of the motorcycle identified himself as Subham alias Sunny son of Surinder Kumar resident of Golden Avenue Colony Dadowa Road Dhariwal District Gurdaspur. The young man sitting at the back identified himself as Pankaj Kumar alias Bhura (petitioner) son of Ramesh Kumar currently residing as a tenant at the house of Ratte near Kabir Das Mandir Dhariwal District Gurdaspur. Before checking the black wax envelopes held by the young men in the middle and at the back, He/ASI attempted to involve public witnesses in the police party, but everyone cited valid reasons and refused to participate. Then, in the presence of police personnel, he checked the black wax envelope held in the right hand of the middle seated young man and recovered 400 unmarked red-colored intoxicating capsules and Indian currency amounting to Rs 11,040/- considered as drug money. Upon checking the black envelope held by the young man at the back, 70 unmarked white tablets were recovered. He/ASI, sealed the recovered 400 capsules in a plastic box, marked and sealed it with his final seal SS/01. The 70 tablets were similarly sealed and marked. The Rs. 11,040/- was also sealed in a plastic box with seal SS/01. The red Pulsar motorcycle bearing registration number PB 06 X 4221 was taken into police possession separately. A sample seal was also prepared. Since the recovery of the narcotics was sudden from Munish @ Mannu, Subham Sharma alias Sunny sons of Surinder Kumar and Pankaj alias Bhura (petitioner) and due to the urgency no magistrate or gazetted officer could be summoned. Therefore, he/ASI wrote a rukka against the accused for registration of a case under Sections 22 (b), 27-A, 29 of the NDPS Act. Hence a case FIR No. 52 dated 14.05.2025 under Section 22(b), 27-A, 29-NDPS Act Police Station Dhariwal, District Gurdaspur was registered against Munish @ Mannu, Subham Sharma alias Sunny and Pankaj alias Bhura (petitioner)."

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

CRM-M-43681-2025

so at their discretion, to which the petitioner shall have no objection.

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

REASONING:

8. It shall be relevant to refer to following portion of the reply, which reads as follows:

“9. A. The name and total weight of the drug.

That FSL Report is still awaited.

B. The evidence based on which the petitioner was arraigned as an accused.

That, there are sufficient evidences against the petitioner as per the record. He is the main accused in this case and by name FIR is registered against him.

C. The evidence against the petitioner.

That the sufficient evidence against the petitioner as per record.

D. The role of the petitioner.

The petitioner is the main accused in this case and by name FIR is registered against him.

9. Per the custody certificate dated 08.09.2025 the petitioner's custody in this FIR is of 03 months & 25 days.

10. The FSL report in the present case is still awaited.

11. The law of bail, like any other branch of law, has its own philosophy, and occupies an important place in the administration of justice and the concept of bail emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal.¹In deciding bail applications an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial.—Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? —Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? —Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail.² Personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and

¹ Supreme Court of India in Vaman Narain Ghiya v. state of Rajasthan, [E-SCR] ; [2008] 17 SCR 369, Para 16, decided on 12.12.2008.

²Supreme Court of India in State of Kerala v. Raneef, SC 2J [E-SCR]; [2011] 1 SCR 590, Para 4, decided on 03.01.2011.

CRM-M-43681-2025

circumstances of the case.³ Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the curial power to negate it is a great trust exercisable, not casually, but judicially with lively concern for the cost to the individual and the community.⁴ When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated.⁵

CONDITIONS:

12. Given the above, provided the petitioner is not required in any other case, the **petitioner shall be released on interim bail in the FIR captioned above, till the FSL report comes**, 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 10,000.

13. 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 10,000/-, 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.

14. 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)

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

16. 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.

³ Supreme Court of India in Siddharam Satlingappa Mhetre v. State of Maharashtra, SC 2J [E-SCR], Paragraph 127, decided on 02.12.2010.

⁴ Supreme Court of India in *Babu Singh & ors v. State of UP*, [E-SCR] P. 777, decided on 31.01.1978.

⁵ Supreme Court of India in Sanjay Chandra v. CBI , [2011] 13 (ADDL.) S.C.R. 309, Para 26, [E-SCR], decided on 23.11.2011.

CRM-M-43681-2025

17. Given the background of allegations against the petitioner, it becomes paramount to protect the members of society, detection 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.

18. 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."

19. In *Md. Tajjur 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."

20. 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.

21. 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

CRM-M-43681-2025

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.

22. Notwithstanding anything stated above, if the contraband falls under the commercial quantity because of the laboratory report, then the petitioner shall be informed and supplied with a copy of the FSL report. He shall be granted 7 days to file another anticipatory bail application before the Sessions Court or this Court seeking bail for commercial quantity by meeting the rigors of S. 37 of the NDPS Act. The present bail order shall automatically stand recalled on the 8th day of the communication of the report of FSL to the petitioner.

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

24. 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.”

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

(ANOOP CHITKARA)
JUDGE

30.09.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.