

CRM-M-53748-2024

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

CRM-M-53748-2024  
Reserved on: 21.04.2025  
Pronounced on: 29.04.2025

Roshan Lal ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Kuldeep Singh Siwach, Advocate  
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
603	29.08.2024	HTM Hisar, District Hisar	22(C) of NDPS Act

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 petition as well as para 10 of the reply dated 05.11.2024, accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	241	09.07.2020	8, 22, 29 of NDPS Act	Rawatsar, Hanumangarh, Rajasthan
2	183	06.08.2021	22C, 27A of NDPS Act	Sadar Ratia, Fatehabad
3	386	22.08.2024	22C, 27A, 29 of NDPS Act	City Fatehabad, Fatehabad

3. The facts and allegations are taken from the reply filed by the State. On 29.08.2024 based on secret information, the Police seized 37500 tablets of Alprazolam from the possession of accused-Ravidutt Sharma, who later on named the petitioner as seller of the drug. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and BNSS 2023.

4. The petitioner's counsel made the following arguments:-

CRM-M-53748-2024

*“That after registration of the present FIR petitioner filed the present bail application and this Hon'ble Court issued notice to the respondent state after that state counsel fill the reply in the present case and there is no evidence against the petitioner except the alleged disclosure statement of co-accused and this Hon'ble Court granted interim bail to the petitioner on 13.11.2024 and also direct to join the investigation on 18.11.2024 at 10.00 AM and in compliance of the above said order petitioner join the investigation on 18.11.2024 in the present case and the police implicated/arrested the petitioner in other case i.e FIR No.386 dated 22.09.2024 on the same allegation and same story line to line. And thereafter the present matter came to hearing on 11.12.24 and the respondent state file reply dated 06.12.2024 and the state counsel submitted that the petitioner is in custody in some other case and the matter was adjourned for 14.01.2025 and this Hon'ble court clarified that in case the investigator concerned wants the petitioner to join investigation, it shall be permissible to file appropriate application with the concerned Illaqa Magistrate for temporary custody of the petitioner within the jail premises where he is confined. Thereafter the matter comes for hearing on 14.01.2025 and the matter was adjourned for 13.02.2025 interim order to continue till the next date of hearing. However, state may join petitioner into investigation as he is already in custody in another case. And thereafter also the petitioner join investigation as per the direction of this Hon'ble Court and the matter was taken up on 13.02.2025 and the respondent state counsel seeks further time to file fresh status report and the matter was adjourned for 05.03.2025 interim order to continue till the next date of hearing and thereafter the respondent state file reply dated 26.02.2025 same is taken on record and the matter was adjourned for 10.03.2025 interim order to continue till the next date of hearing. On 10.03.2024 again direct to file status report and the matter was adjourned for 18.03.2025 interim order to continue. On 18.03.2025 state counsel file status report dated 17.03.2025 exact same which is earlier filed on 26.02.2025 only the date is changed i.e 17.03.2025 and the matter was adjourned for 20.03.2025 and the interim order to continue till the next date of hearing. Thereafter on 20.03.2024 the matter is come to hearing and the this Hon'ble court this Hon'ble court considering the every status report and found no evidence against the petitioner and this Hon'ble Court observed in para No.1 to 6 and directed to petitioner to join the investigation from 27.03.2025 to 29.03.2025 and the matter was adjourned for 08.04.2025. thereafter on 08.04.2025 petitioner filed application for place on record the annexure P-3 to P-5 which the*

CRM-M-53748-2024

*judgment of acquittal and case status of acquittal and the disclosure statement of other case i.e FIR No.386 dated 22.08.2024 in which the petitioner is arrested on 18.11.2024 after join Investigation in the present case.*

*That it is pertinent to mention here that even after arrest in the above said FIR nothing has been recovered from the petitioner and the police only to complete the target and formality of the investigation challan filed in FIR No.386 dated 22.08.2025 and the petitioner is file regular bail which in pending in the and is yet to be listed.*

*This fact is clearly showing that how the police implicated innocent and poor person to save the actual culprits because in the present case is alleged recovery is showing to the huge quantity i.e 37500 tablets with manufacter name batch number date everything with the police but even the police did not join or call any one or inquired from them who and how this tablets to be sold because the petitioner is nor the manufacter or medical shop or worker any where in such type.”*

5. Counsel further 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.

6. The State’s counsel opposes bail and refers to the reply dated 05.11.2024 and also the reply dated 05.04.2025.

REASONING:

7. An analysis of the above would lead to the following outcome.

8. The State has filed the first response which bears the date of 05.11.2024. In para7 of the said reply it was mentioned that 37500 tablets were recovered from Ravi Dutt Sharma who had named the petitioner as its seller however, this Court was not satisfied with contents of the reply and vide order dated 13.11.2024 this Court had directed the petitioner to join investigation and asked the State to file a fresh status report mentioning the evidence collected so far. The concerned DySP filed the reply dated 06.12.2024. It would be appropriate to refer to following portion of the reply, which reads as follows:-

*“That is important to mention here that, during investigation when CAF ID of mobile number 8377897403 used by the petitioner/accused was obtained, it was found that this mobile number was issued in the name of Amir Bano wife of Yusuf, resident of E-13/A-438-B, North East, Delhi. That petitioner/accused confessed during investigation that this mobile number was issued in the name of his neighbor Amir Bano but he used this mobile number. That investigating officer also recorded the statement of*

CRM-M-53748-2024

*Amir Bano in this regard, in which she stated that petitioner/accused Roshan is her neighbour. About a year ago he told her that his identity card has been lost, you get a SIM card in your name on any of your IDs and give it to him. When his ID is made, he will get a SIM in his name and give it back to her. She believed and got SIM number 8377897403 taken on her ID and gave it to petitioner/accused Roshan. Later she told petitioner/accused Roshan many times but he did not return the Sim card to her. Roshan used this SIM. Copy of statement of Amir Bano is annexed as Annexure R-5.*

*That during investigation when mobile call details was obtained, then it was found that the petitioner/accused contacted from his mobile number 8377897403 to co-accused Ravi Dutt's mobile number 90345-26987 on dated 08.07.2024 three times about 375 seconds, 87 seconds and 31 seconds respectively.”*

9. Thus, in the said reply, investigator tried to link the petitioner with the main accused through call details. After that on 20.03.2025, this Court had passed another detailed order which reads as follows:-

*“The investigation conducted, and the evidence collected against the petitioner are referred in the status report dated 17.03.2025 filed by Additional Superintendent of Police, Hisar. Perusal of the same reveals that further investigation is also required because of following reasons:*

*1). The evidence collected thus far consists of disclosure from the other accused. Such type of evidence is subject to the legislative restrictions imposed by Sections 25 and 26 of the Indian Evidence Act of 1872 and Section 23 of the BSA, 2023.*

*ii). Even after investigation, the police did not collect evidence such as call records, the petitioner's visits with the other accused, bank transactions, other business dealings, digital evidence, etc.*

*2. After reviewing the evidence collected thus far and considering the seriousness of the crime with transborder connections, this Court is of the considered opinion that further investigation is necessary in this case.*

*3 Given above, investigation is necessary to collect evidence regarding call details, financial transactions, location, connections with the co-accused, evidence of people in the vicinity, social media connections, etc. qua the petitioner.*

*4 To enable the petitioner to join investigation without any duress or coercion, the petitioner makes a case for continuing the order of stay of arrest until further order. The Commissioner of Police/SP concerned is to file a fresh status report mentioning the evidence collected against the*

CRM-M-53748-2024

*petitioner.*

*5. This Court has granted stay of arrest; however, if the petitioner is found to be in custody in any other case, this order granting a stay of arrest will not be valid or enforceable and will be automatically recalled.*

*6. The petitioner is directed to join the investigation from 27.03.2025 to 29.03.2025 at 10 a.m. in the concerned police station and after that as and when called upon to do so by the Investigator. The petitioner will be considered in deemed custody under Section 27 of the Indian Evidence Act, 1872, and Section 23 of BSA, 2023. Throughout the investigation, the petitioner shall not be subjected to third-degree methods, inappropriate language, inhumane treatment, and so on. If the petitioner fails to comply, the protection will be revoked on the next date.*

*7. List on 08.04.2025.”*

10. Thereafter, another status report dated 05.04.2025 was filed by the Superintendent of Police, Hisar. It would be appropriate to refer to following portion of the said status report which reads as follows:-

*“3. That briefly stated the facts of the case are that on 29.08.2024, accused Ravidutt Sharma was apprehended by the police while in possession of 50 boxes/packets of Alparazolam Tablets IP-0.5 mg and Alprazole-0.5 (10 strips in each box and 75 tablets in each strip i.e, total 37,500 tablets) based on which the present case/FIR No.603 dated 29.08.2024 was registered under section 22-C of NDPS Act at P.S. HTM Hisar, District Hisar against the accused person namely Ravidutt Sharma.*

*4. That during initial investigation of the case name of the petitioner/accused was added in the present case on the basis of disclosure statement dated 30.08.2024 of the co-accused namely Ravidutt Sharma. It was disclosed by the accused Ravidutt Sharma that he alongwith the petitioner/accused was confined in Hisar Jail-2 in connection with supply of intoxicant tablets and in this manner he got acquaintance with the petitioner/accused. Petitioner/accused provided his mobile No.87439-03160 to co-accused Ravidutt Sharma and told him to contact him when he gets released from jail. After getting bail in 2023, he contacted the petitioner/accused from his mobile No.94160-63296 and met him in Delhi. They had a conversation with regard to intoxicant tablets and the petitioner/accused assured that he will provide the intoxicant tablets as per his requirement through transport. He paid Rs.37,500/- in cash to the petitioner/accused and petitioner/accused sent the recovered intoxicant tablets through Bhartiya Transport at Jahaj Bridge, near Thandi Sadak,*

CRM-M-53748-2024

*Hisar. Copy of disclosure statement of accused Ravidutt Sharma is appended herewith as Annexure R-1.*

*4. That during investigation, the investigating officer moved application before Cyber Cell, Hisar for obtaining CDR of mobile No.90345-xxxxx (accused Ravidutt Sharma) and of mobile Nos. 83778-xxxxx & 87439-xxxxx of petitioner/accused Roshan Lal. On 17.09.2024, a record was obtained from New BhartiTransport Company, from which the parcel of intoxicant tablets was booked in the name of the accused Ravidutt Sharma, with the nickname RD, by the petitioner/accused, and the same was taken into police possession by the investigating officer via a separate recovery memo. From perusal of the record, it transpired that the parcel was booked vide bilty No.16527 dated 27.08.2024 in the name of RD, and the same was delivered through vehicle No. HR-39E-6177. The accused, Ravidutt Sharma, signed as receiver of the parcel and also mentioned his mobile number 90345-26987. Copy of record qua the parcel is appended herewith as Annexure R-2.*

*5. That during course of hearing of present petition vide order dated 13.11.2024 this Hon'ble High Court was pleased to directed the petitioner/accused to join in investigation of the case. In compliance of order dated 13.11.2024 passed by this Hon'ble High Court the petitioner/accused was joined into investigation of the case on 18.11.2024 wherein he disclosed that, he came in touch with co-accused Ravidutt Sharma in the year 2022-23 as both of them were confined in Hisar Jail No.2. It was also disclosed by the petitioner/accused that he had two Sim cards i.e. Sim No.8743903160 (in name of his wife Sunita) and Sim No.8377897403 (in the name of his neighbour Amir Bano). On 27.08.2024 he booked a parcel of intoxicant tablets in the name of RD from New Bhartiya Transport, Naya Bazar Delhi and informed co-accused Ravidutt Sharma on phone to pick the parcel. Copy of interrogation of the petitioner/accused dated 18.11.2024 is appended herewith as Annexure R-3.*

*6. That during investigation, Customer Application Form of mobile number 8377897403 was obtained and the same was found to be issued in the name of Amir Bano wife of Yusuf, resident of E-13/A-438-B, North-East Delhi. Amir Bano was joined in the investigation of the case, and her statement was recorded wherein she stated that mobile No.83778-97403 was obtained by the petitioner-accused Roshan in her name while making the excuse that he lost his ID card & and that the said SIM card was used by the petitioner/accused only.*

*7. That on 13.10.2024 record from New Bhartiya Transport Company,*

CRM-M-53748-2024

*Shop No.4076, New Bazar, Delhi was obtained. Perusal of the record revealed that on 27.08.2024, the parcels were booked for Hisar by the Company through Challan No.4097 dated 27.08.2024. The entry of the parcel as booked by the petitioner/accused for Hisar is having entry at serial No.5 vide bilty No.16527, and the said parcel was delivered through a vehicle bearing registration No. HR-39E-6177 at New Bhartiya Transport, Jahaj Pul, Hisar. Copy of record obtained from New Bhartiya Transport Company, Delhi is appended herewith as Annexure R-4.*

*8. That on 13.10.2024, the investigating officer recorded the statement of Karambir Singh, son of Ramdev, Manager of New Bhartiya Transport, Delhi. He, in his statement, disclosed that on 27.08.2024, a person, namely Roshan, booked a parcel in the name of Ravidutt, a resident of Hisar, and his short name was mentioned as RD. After booking the parcel, a yellow receipt was handed over to him. He also disclosed that he didn't know the whereabouts of Roshan, nor did he know that the said parcel contained intoxicant tablets. However, he stated that if the said Roshan was brought before him, he could identify him. Copy of statement of Karambir is appended herewith as Annexure R-5.*

*9. That on 15.10.2024 record qua manufacture Company of recovered intoxicant tablets was received from Euphoria India Pharmaceuticals, Badi, Himachal Pradesh, through post and the same was taken in police possession by the investigating officer. The record revealed that the recovered tablets were sold to M/s M.K. Medical Agency, Godhra District, Panchmahal Gujrat, by Euphoria India Pharmaceuticals Company. Consequently, a record from M/s M.K. Medical Agency, Godhra District, Panchmahal Gujrat, was obtained, and perusal of the record showed that the recovered tablets were further sold to Cinderella "Pharma Shop No.20, Samruddhi Rescum Makar Puram, Vadodara Gujrat. For obtaining the record from Cinderella Pharma Shop No.20, Samruddhi Rescum Makar Puram, Vadodara Gujrat correspondence was made by the investigating officer. However, the Cinderella Pharma Shop No.20, Samruddhi Rescum Makar Puram, Vadodara Gujrat was found to be not in existence at the given address.*

*10. That on 03.01.2025, opinion was sought from the Drug Inspector qua the recovered intoxicant tablets i.e. Alprazolam 0.5 mg. In opinion dated 03.01.2025 vide office memo No. DCOH-1/2025/03, the Drug Inspector stated that the recovered tablets Alprazolam falls under Sr. No.178 of NDPS Act. Copy of report of Drug Inspector is appended herewith as Annexure R-6.*

CRM-M-53748-2024

11. That during further investigation, record of petitioner/accused and co-accused Ravidutt Sharma was obtained from Hisar Jail-2 and perusal of same revealed that accused Ravidutt Sharma was confined as prisoner from 04.10.2022 to 05.05.2023, whereas, petitioner/accused was confined as prisoner from 27.02.2023 to 01.05.2023. Copy of record of the Hisar Jail-2 qua the petitioner/accused and co-accused Ravidutt is appended herewith as Annexure R-7.

12. That during investigation CDR of the mobile No.9034526987 of accused Ravidutt and mobile No.83778-97403 of petitioner/accused was perused. It revealed that the petitioner/accused was in touch with accused Ravidutt Sharma in the following manner:-

<i>Date</i>	<i>From</i>	<i>To</i>
01.07.2024 2 Outgoing calls	83778-xxxxx	90345-xxxxx
08.07.2024 3 outgoing calls	83778-xxxxx	90345-xxxxx

13. Apart from call details, the locations chart of the petitioner/accused and the co-accused Ravidutt Sharma, bank account details of the petitioner/accused and co-accused Ravidutt Sharma have been obtained and perused by the investigating officer, but no additional evidence surfaced on these aspects.

14. That in para No.5 of the order dated 20.03.2025 this Hon'ble High Court was pleased to observe that, "this Court has granted stay of arrest; however, if the petitioner is found to be in custody in any other case, this order granting a stay of arrest will not be valid or enforceable and will automatically recalled. "That the petitioner/accused at present confined in judicial custody in case/FIR No.386/2024 registered at P.S. City Fatehabad, under section 22-C, 29, 27-A of NDPS Act. Under Trial.

15. That the petitioner/accused in FIR No.386/2024, registered at P.S. City Fatehabad disclosed that he is having mobile No.78381-66098, which he bought from his known Kuldeep son of Balbir. The call details of accused Ravidutt's mobile No.90345-26987 revealed that the petitioner/accused was in touch with the accused Ravidutt from the mobile No.78381-66098 in following manner:-

<i>Date</i>	<i>From</i>	<i>To</i>
19.07.2024 1 Outgoing call	78381-xxxxx	90345-xxxxx

CRM-M-53748-2024

22.07.2024 <i>1 Outgoing call</i>	78381-xxxxx	90345-xxxxx
24.07.2024 <i>1 Outgoing call</i>	78381-xxxxx	90345-xxxxx
29.07.2024 <i>1 Outgoing call</i>	78381-xxxxx	90345-xxxxx

11. An analysis of the above said evidence clearly indicates and connects the petitioner with the dealing of drugs. The quantity involved was massive and the explanation is offered by the petitioner do not override the requirements of Section 37 of NDPS Act, whose legal validity has been upheld by the Courts. Even if the petitioner's initial implication was based on disclosure statement but petitioner's liberty was never curtailed because of such, an appropriate opportunity was granted to the petitioner to join investigation and the investigation was to be conducted so that in case there was no evidence against the petitioner or insufficient evidence, his liberty is not curtailed. An analysis of the latest reply filed by the Superintendent of Police, clearly indicates massive evidence which is clinching and prima facie connecting the petitioner with the drugs recovered from Ravi Dutt Sharma. Consequently, petitioner is not entitled to bail.

12. Given the above, the petitioner has, prima facie, failed to satisfy the conditions of section 37 of the NDPS Act to make a case for bail.

13. In *Abida v. State of Haryana*, 2022:PHHC:058722, [Para 10], CRM-M-5077-2022, decided on 13-05-2022, this court observed as follows:

[10]. Thus, both the twin conditions need to be satisfied before a person accused of possessing a commercial quantity of drugs or psychotropic substance is to be released on bail. The first condition is to provide an opportunity to the Public Prosecutor, enabling to take a stand on the bail application. The second stipulation is that the Court must be satisfied that reasonable grounds exist for believing that the accused is not guilty of such offence, and is not likely to commit any offence while on bail. If either of these two conditions is not met, the ban on granting bail operates. The expression "reasonable grounds" means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. Even on fulfilling one of the conditions, the reasonable grounds for believing that the accused is not guilty of such an offence, the Court still cannot give a finding on assurance that the accused is not likely to commit any such crime again. Thus, the grant of bail or denial of bail for possessing commercial quantity would vary from case to case, depending upon its facts.

[30]. From the summary of the law relating to rigors of S.37 of NDPS Act, while granting bail involving commercial quantities, the following fundamental principles emerge:

- (a). In case of inconsistency, S. 37 of the NDPS Act prevails over S. 439 CrPC. [*Narcotics Control Bureau v Kishan Lal*, 1991 (1) SCC 705, Para 6].

CRM-M-53748-2024

- (b). The limitations on granting of bail come in only when the question of granting bail arises on merits. [Customs, New Delhi v. AhmadalievaNodira, (2004) 3 SCC 549, Para 7].
- (c). The provisions of Section 37 of the NDPS Act provide the legal norms which have to be applied in determining whether a case for grant of bail has been made out. [UOI v. Prateek Shukla, **2021:INSC:165 [Para 11]**, (2021) 5 SCC 430, Para 12].
- (d). In case the Court proposes to grant bail, two conditions are to be mandatorily satisfied in addition to the standard requirements under the provisions of the CrPC or any other enactment. [Union of India v. Niyazuddin SK &Anr, **2017:INSC:686 [Para 7]**, (2018) 13 SCC 738, Para 7].
- (e). Apart from granting opportunity to the Public Prosecutor, the other twin conditions which really have relevance are the Court's satisfaction that there are reasonable grounds for believing that the accused is not guilty of the alleged offence. [N.R. Mon v. Md. Nasimuddin, (2008) 6 SCC 721, Para 9].
- (f). The satisfaction contemplated regarding the accused being not guilty has to be more than prima facie grounds, considering substantial probable causes for believing and justifying that the accused is not guilty of the alleged offence. [Customs, New Delhi v. Ahmadaliev Nodira, (2004) 3 SCC 549, Para 7].
- (g). The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. [State of Kerala v. Rajesh, **2020:INSC:88 [Para 21]**, AIR 2020 SC 721, Para 21].
- (h). Twin conditions of S. 37 are cumulative and not alternative. [Customs, New Delhi v. Ahmadaliev Nodira, (2004) 3 SCC 549, Para 7].
- (i). At the bail stage, it is neither necessary nor desirable to weigh the evidence meticulously to arrive at a positive finding as to whether or not the accused has committed an offence under the NDPS Act and further that he is not likely to commit an offence under the said Act while on bail. [Union of India v. Rattan Mallik @ Habul, (2009) 2 SCC 624, Para 14].
- (j). If the statements of the prosecution witnesses are believed, then they would not result in a conviction. [Babua v. State of Orissa, (2001) 2 SCC 566, Para 3].
- (k). Merely recording the submissions of the parties does not amount to an indication of a judicial mind or a judicious application of mind. [UOI v. Prateek Shukla, **2021:INSC:165 [Para 11]**, (2021) 5 SCC 430, Para 12].
- (l). Section 37 departs from the long-established principle of presumption of innocence in favour of an accused person until proved otherwise. [Union of India v. Sanjeev v. Deshpande, (2014) 13 SCC 1, Para 5].
- (m). While considering the application for bail concerning Section 37, the Court is not called upon to record a finding of not

CRM-M-53748-2024

guilty. [Union of India v. Shiv Shanker Kesari, (2007) 7 SCC 798, Para 11].

(n). The confessional statement recorded under Section 67 of the NDPS Act is inadmissible in the trial of an offence under the NDPS Act. [Tofan Singh v. State of Tamil Nadu, **2020:INSC:620**, (2021) 4 SCC 1]

(o). In the absence of clarity on the quantitative analysis of the samples from the laboratory, the prosecution cannot be heard to state at this preliminary stage that the accused possessed a commercial quantity of psychotropic substances as contemplated under the NDPS Act. [Bharat Chaudhary v. Union of India **2021:INSC:877 [Para 11]**, 2021 SCC OnLine SC 1235, Para 10].

(p). When there is evidence of conscious possession of commercial quantity of psychotropic substances, such accused is not entitled to bail given Section 37 of the Act as contemplated under the NDPS Act. [State by (NCB) Bengaluru v. Pallulabid Ahmad Arimutta, **2022:INSC:26 [Para 11]**, 2022 SCC OnLine SC 47, Para 12].

(p). Bail must be subject to stringent conditions. [Sujit Tiwari v. State of Gujarat, **2020:INSC:101 [Para 12]**, 2020 SCC Online SC 84, Para 12].

[31]. Satisfying the fetters of S. 37 of the NDPS Act is candling the infertile eggs. The stringent conditions of section 37 placed in the statute by the legislature do not create a bar for bail for specified categories, including the commercial quantity; however, it creates hurdles by placing a reverse burden on the accused, and once crossed, the rigors no more subsist, and the factors for bail become similar to the bail petitions under general penal statutes like IPC.

14. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. The impact of crime would also not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

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

16. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)  
JUDGE

29.04.2025  
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Whether speaking/reasoned: Yes  
Whether reportable: No.