

CRM-M-28660-2025

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

CRM-M-28660-2025  
Reserved on: 02.09.2025  
Pronounced on: 29.09.2025

Mohd. Sahil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Anil Kumar Malik, Advocate  
for the petitioner.

Mr. Atul Gaur, AAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
27	05.02.2025	Baroda, Distt. Sonepat	20(b)(ii)(c) 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 paragraph 14 of the bail petition as well as custody certificate dated 31.08.2025, the petitioner has no criminal antecedents.
3. The facts and allegations are taken from the reply filed by the State, and para 2 reads as follows:

*“2. That briefly stating the facts involved in the instant case is “that on 04.02.2025 ASI Rohtash along with his colleagues in Govt. vehicle was present at village Bichpari Bus Stand when a secret informer told him that accused Ranbir alias Kala along with his companions Joginder alias Joga and Rohit alias Sonu were coming from Safidon to Gohana for taking the narcotic substance and if a raid is conducted they could be caught red handed. Upon it, information Notice 42 NDPS Act was sent at Police Station by ASI Rohtash in which information of car bearing registration number HR-42-7358 carrying narcotics substance was sent to the Police Station for recording DDR. ASI along with his colleagues went to the disclosed place where they apprehended the accused persons. On enquiry, they disclosed*

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*their names, parentage and addresses. After serving notice under Section 50 of the Act, when search of Car No.HR-42-7358 was conducted in the presence of Gazetted Officer, Charas weighing 1 Kg 115 grams was recovered. The same was taken into police possession as per rules vide separate recovery memo" and also car bearing registration No. HR-42-7358 was taken in to police possession as evidence."*

4. 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.

5. 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.

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

REASONING:

7. It shall be relevant to refer to paras 5 & 6 of the reply:

*"5. During the further investigation on 07.02.2025, the petitioner/accused Sahil son of Wasid Basi Gada Road, Mirzapur District Saharanpur UP was joined in the investigation and after finding incriminating evidence against him he was formally arrested in the present case. Accordingly he suffered his disclosure statement and admitted his guilt. The copy of disclosure statement of accused Sahil is annexed as Annexure R1 It pertinent to mention here that the name of the accused Sahil was revealed in the disclosure statement of Co-accused Ranbir in way that:- "Co-accused Ranbir, Jogender and Rohit knows the accused/petitioner as Co-accused Raja,s Son. After his arrest his name was revealed. The copy of disclosure statement of accused Co-accused Ranbir is annexed as Annexure R2.*

*6. That during the further investigation, CAF and CDR of the mobile phone numbers used by the accused/petitioner Mohd. Sahil have been obtained. According to which, it has been revealed that the accused/petitioner and Co-accused were in contact with each other through mobile and also the transaction of money was also found."*

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8. As per paragraph 10(i) of the reply, the name of the contraband is charas and its weight is 1 kg 115 grams.

9. Dealing in 1.115 kg of Hashish in contravention of the NDPS Act, 1985, constitutes an offense under the following provisions and notifications:

Substance Name	Cannabis and cannabis resin/ Charas/ Hashish/ Sulpha
Quantity detained	1.115 Kg
Punishable U/s	S.20(b)(ii)C of NDPS Act, 1985
Quantity type	Commercial

Drug's Small & Commercial Qty. suggested by Committee report	
Notification No. & date	Expert Committee Report dated 24.03.1995 & 23.08.2001 (Small and Commercial)

<i>Specified as small &amp; Commercial in S.2(viia) &amp; 2(xxiii) NDPS Act, 1985</i>		
Notification No. & dated	S.O.1055(E)	10/19/2001
-		
Sr. No.	23	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN))	Cannabis and cannabis resin	
Other non-proprietary name	CHARAS, HASHISH	
Chemical Name	EXTRACTS and TINCTURES OF CANNABIS	
Small Quantity	< 100 Gram (i.e. equivalent to 0.1 Kg)	
Commercial Quantity	> 1000 Gram (i.e. equivalent to 1 Kg)	

Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) & 2(xxiii) NDPS Act, 1985		
Notification No. & dated	S.20 & S.2(iii) NDPS Act, S.O.821(E)	11/14/1985

Sr. No.	S.2(iii)
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Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN))	*****
Other non-proprietary name	*****
Chemical Name	<p>S.2(iii) “cannabis (hemp)” means—</p> <p>(a) charas, that is, the separated resin, in whatever form, whether crude or purified, obtained from the cannabis plant and also includes concentrated preparation and resin known as hashish oil or liquid hashish;</p> <p>(b) ganja, that is, the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated; and</p> <p>(c) any mixture, with or without any neutral material, of any of the above forms of cannabis or any drink prepared therefrom;</p> <p>(iv) “cannabis plant” means any plant of the genus cannabis; S. 2(viii b)] “illicit traffic”, in relation to narcotic drugs and psychotropic substances, means—</p> <p>(i) cultivating any coca plant or gathering any portion of coca plant;</p> <p>(ii) cultivating the opium poppy or any cannabis plant;</p> <p>(iii) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transshipment, of narcotic drugs or psychotropic substances;</p>

10. 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 put in place by the Legislature under Section 37 of the NDPS Act.

11. It would be appropriate to refer to role of the petitioner and evidence collected against the petitioner, which is taken from the reply, which reads as follows:

*“Role of the Accused (Sahil Son of Wasid, Resident of Gada Road, Mirzapur, District Saharanpur, UP)*

*(i). Primary Offender and Active Drug Peddler: accused Sahil admits to actively engaging in the sale of narcotic substances, specifically hashish (Charas) for financial gain. He confesses that selling hashish (Charas) is his primary source of income due to the lack of legal means to support his*

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*household. Further He disclosed that Four-five days ago, Co-accused (Jogendra, Ranbir and Rohit) who are from Haryana came to me in a 'Red Car with Haryana number plate to buy hashish. They bought about 01 kg 200 grams of hashish from me for twenty thousand rupees and he has accepted the payment of Rs.20000/- (Via online scanner) and he disclosed that hashish was given to me by an unknown person who was claiming to be from Uttarakhand.*

*(ii) Key Participant in Drug Distribution Network In his disclosure statement reveals that he plays a critical link in a larger drug supply chain, acting as a middle-level distributor. He sourced the hashish from an unidentified supplier (allegedly from Uttarakhand), indicating his involvement in a trans-regional drug trafficking network.*

*(iii) Repeat Offender under NDPS Act Sahil acknowledges that there are already ongoing NDPS cases against him and his family (father, mother, brother), suggesting a history of narcotic-related offences and a pattern of criminal behaviour.*

*(iv) Handler of Transactions and Digital Payment Receiver - He facilitated the transaction using digital payment methods (a QR scanner on his phone), demonstrating an adaptive approach to drug dealing to avoid physical cash and potentially evade detection.*

*(v) Supplier to Out-of-State Buyers: He sold the narcotics to individuals from another state (Harvana), indicating that his dealings extend beyond local circles, potentially pointing to interstate trafficking activity.*

*(vi). Recoveries in present case: 1. Charas 1 Kg 115 grams, 2. A car bearing registration number HR-42-7358 were recovered from Co-accused (Ranbir, Jogender and Rohit).”*

12. Thus, 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. 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

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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.

14. 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. Thus, there is no justification to deny bail. Consequently, the petitioner has satisfied the first rider of section 37 of the NDPS Act. Regarding the second rider of S. 37, this court will put very stringent conditions in this order to ensure that the petitioner does not repeat the offense.

15. 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.

[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.

16. As per paragraph 8 of the bail petition, the petitioner has been in custody since 10.02.2025. Per the custody certificate dated 31.08.2025 the petitioner’s total custody in this FIR is 06 months & 25 days.

17. Given the penal provisions invoked vis-à-vis pre-trial custody, 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 further pre-trial incarceration at this stage.

18. The investigation indicates that the petitioner is not the main accused, so the

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petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

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

20. Given the penal provisions invoked, the legal admissibility of evidence collected against the petition, 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 further pre-trial incarceration at this stage.

21. Without commenting on the case's merits, in the facts and circumstances unique and peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

CONDITIONS:

22. 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.

23. 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.

24. 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)	

25. This order is subject to the petitioner's complying with the following terms.

26. The petitioner shall abide by all statutory bond conditions and appear before the

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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.

27. Given the background of allegations against the petitioner, it becomes paramount to protect detection squad, the 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 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.

28. 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 Hon'ble Supreme Court holds 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."

29. 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."

30. 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

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desirable to impose the following additional condition.

31. 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.

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

33. 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.”

34. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)  
JUDGE

29.09.2025  
anju rani

Whether speaking/reasoned: Yes  
Whether reportable: No.