

CRM-M-6547-2025
CRM-M-8326-2025
CRM-M-5913-2025

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

CRM-M-6547-2025
Reserved on: 03.04.2025
Pronounced on: 29.04.2025

Manish @ Monu ...Petitioner

Versus

State of Haryana ...Respondent

CRM-M-8326-2025

Madan Lal ...Petitioner

Versus

State of Haryana ...Respondent

CRM-M-5913-2025

Joginder Singh @ Jogi ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Nikhil Vats, Advocate
for the petitioner (in CRM-M-6547, 8326-2025).

Mr. Amit Choudhary, Advocate
for the petitioner (in CRM-M-5913-2025).

Mr. Naveen K. Sheoran, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
337	31.07.2024	Sadar Fatehabad, District Fatehabad	15(b), 27-A, 29 of NDPS Act

1. Vide this common order, CRM-M No.5913 of 2025, CRM-M No.6547 of 2025 and CRM-M No.8326 of 2025 are being disposed of. For brevity, the facts are being taken from CRM-M No.6547 of 2025.

2. The petitioner(s) apprehending arrest in the FIR captioned above have come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

CRM-M-6547-2025
CRM-M-8326-2025
CRM-M-5913-2025

3. In paragraph 10 of the bail petition CRM-M No.6547 of 2025, the accused declares that he has no criminal antecedents, however, as per paragraph 10 of status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	485	13.08.2020	13A of Gambling Act	City Sirsa
2.	567	21.10.2021	Excise Act	City Sirsa

4. In paragraph 7 of the bail petition CRM-M No.5913 of 2025, the accused declares that he has no criminal antecedents.

5. Per paragraph 10 of the bail application CRM-M No.8326 of 2025, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	88	12.02.2013	148, 149, 323, 452, 427, 506 IPC	Sadar Fatehabad
2.	349	04.04.2012	61, 01, 14 of Excise Act	Agroha
3.	187	14.04.2013	148, 149, 427, 447, 323, 506 IPC	Sadar Fatehabad
4.	323	27.10.2014	160, 283 IPC	Battu Kalan
5.	385	12.06.2015	61-1-14 of Excise Act	City Fatehabad
6.	303	03.05.2017	61-1-14 of Excise Act	City Fatehabad
7.	171	31.07.2018	323, 452, 34, 508 IPC	Battu Kalan
8.	288	24.08.2018	323, 342, 506, 34 IPC	City Fatehabad

6. Prosecution case is being extracted from status report dated 02.04.2025 filed by State counsel. On July 31, 2024 when the Investigator who were on patrolling duty received a secret information about co-accused Kuldeep Kumar and Anil Kumar indulging in sale of poppy straw. After that they claimed to have complied with the provisions of Section 42 of NDPS Act and eventually recovered 39 kgs 66 gms of poppy husk. On 01.08.2024, both the accused were interrogated and they named Anoop @ Khayali as supplier of the drug. Petitioner was arraigned as an accused because Anoop @ Khayali had disclosed about the involvement of petitioner as buyer of the contraband to whom he supplied. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and BNSS, 2023.

7. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

8. The State's counsel opposes bail and refers to the status report.

9. There are 19 calls between Anoop @ Khyali and Joginder Singh. Although on the face of it the calls would point out petitioner's involvement but the quantity greater than 50 kgs falls in commercial and the quantity is intermediate.

CRM-M-6547-2025
CRM-M-8326-2025
CRM-M-5913-2025

10. 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.

11. Given the quantity, the rigors of S. 37 of the NDPS Act do not apply in the present case.

12. Section 2 (vii-a) of the NDPS Act defines commercial quantity as greater than the quantity specified in the schedule. Section 2 (xxiii-a) defines a small quantity as a quantity less than the quantity specified in the table of the NDPS Act. The remaining quantity falls in an undefined category, generally called an intermediate quantity. All sections in the NDPS Act specify an offence and mention the minimum and maximum sentence, depending upon the quantity of the substance. The commercial quantity mandates a minimum sentence of ten years of imprisonment and a minimum fine of Rupees One hundred thousand, and bail is subject to the riders mandated in S. 37 of the NDPS Act. When the quantity is less than commercial, the restrictions of Section 37 of the NDPS Act will not attract, and the factors for bail become similar to the offence regular statutes.

13. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

14. The Police did not arrest the petitioners; if they intended to arrest the petitioners, it was not impossible.

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

16. Given the penal provisions invoked, the legal admissibility of evidence collected against the petitioners, 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 custodial interrogation or pre-trial incarceration.

17. Given the above, without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners make a case for anticipatory bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

18. The investigation indicates that the petitioners are not the main accused, so the

CRM-M-6547-2025
CRM-M-8326-2025
CRM-M-5913-2025

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

19. Given above, provided the petitioners are not required in any other case, the petitioners shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fail to appear, such surety can produce the accused.

20. While furnishing a personal bond, the petitioners 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)	

21. The bail order is subject to the petitioner's complying with the following terms.

22. The petitioners are directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioners shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioners shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

23. Given the background of allegations against the petitioners, it becomes paramount to protect the detection squad, 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 petitioners shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioners shall be entitled to renew and

CRM-M-6547-2025
CRM-M-8326-2025
CRM-M-5913-2025

reclaim them in case of acquittal in this case, provided otherwise permissible under the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

24. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

25. 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."

26. ***This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.***

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

28. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

29. **Petition(s) allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

29.04.2025

Jyoti Sharma

Whether speaking/reasoned: Yes

Whether reportable: No.