



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

297

CRM-M-9248-2025

Date of Decision: 03.03.2025

Sulochna

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA**

Present: Mr. Kulvir Narwal, Advocate and  
Mr. Abhisar Chaudhary, Advocate for the petitioner.

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

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**ANOOP CHITKARA, J.**

FIR No.	Dated	Police Station	Section
33	14.01.2025	Krishana Gate, Thanesar, District Kurukshetra	20 of NDPS Act

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court second time for similar relief under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail. First petition was withdrawn on 07.02.2025 with liberty to file fresh, as such second petition is maintainable.

2. In paragraph 11 of the bail petition and as per paragraph 5 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Year	Offenses	Police Station
1.	688	2016	61-1-14 of Excise Act & 188 IPC	City Thanesar, Distt. Kurukshetra (Haryana)
2.	299	2020	20(B)-61-85 of NDPS Act	Cheeka, Distt. Kaithal (Haryana)
3.	252	2022	20-61-85 of NDPS Act	City Thanesar, Distt. Kurukshetra (Haryana)
4.	365	2022	20-61-85 of NDPS Act	Sadar North, Delhi, Delhi

3. The facts and allegations are taken from the status report filed by the State. On 14.01.2025, based on chance recovery, the Police seized 1 kg 146 grams of ganja from the petitioner's house. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and BNSS, 2023.

4. At the time of recovery, no one was present in the house of the petitioner. On enquiry, the people and women living nearby told that this house belongs to the petitioner. The petitioner was earlier caught in Delhi in a case of recovery of Ganja, who



has gone to Delhi Court for her hearing in connection with the said case. Apprehending arrest, she filed for anticipatory bail from the Sessions Court, which denied her bail. Feeling aggrieved, he has invoked the concurrent jurisdiction of this Court under S. 482 BNSS, 2023.

5. The petitioner's counsel submits that the police recovered 1 kg 146 grams of ganja from a house, which is alleged to be of the petitioner. He submits that the fact cannot be ignored that the main gate of the house was found open and the petitioner was not found present at the spot and on calling at the gate, no person came outside and during the search also, no person was found inside. He further submits that the petitioner was not apprehended at the spot and she has been falsely implicated in the said case. He further submits that there is no evidence that petitioner is owner of the house. In the reply, the State made averments that house owned by the father-in-law of the petitioner, who had died, and her husband also died, hence, she is now in possession of the said house. However, no evidence regarding this has been produced, so such an averment cannot be sustained. He further submits that the address mentioned in the FIR is totally different from the address mentioned in the identity proof of the petitioner. Hence, the averment pertaining to the house being possessed by the petitioner cannot be sustained.

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 her family.

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

8. It would be appropriate to refer to the following portions of the status report, which read as follows:

*"7. xxxxx*

*A. That the contraband was recovered from the house of the present petitioner and custodial interrogation is necessary to go to the root of the Main Drug peddler.*

*B. That the Contraband is recovered from the house in which the present petitioner is residing since a long time and the house belongs to her Father in Law, who had died and her husband has also died. Thereafter she has the possession of the above said house from whom the contraband was recovered.*

*C. Yes, the Police will arrest the petitioner in the above noted case and police needs the custody of the petitioner as the police needs information*



*regarding from where the contraband was purchased and to whom the contraband will be supplied.*

*D. That the contraband recovered from the house of present petitioner is GANJA having Weight 1KG & 146 Grams along with the wax polythene.”*

**REASONING:**

9. The evidence collected so far against the petitioner is not enough to deny her bail. Police recovered the contraband from a house which is alleged to be in possession of petitioner and at the time of recovery, the door of the house was open and no one was present in the house, as such, these facts can only be proved into evidence only.

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

11. 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.

12. 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.

13. 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 custodial interrogation or pre-trial incarceration.

14. 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 petitioner



makes a case for anticipatory bail.

15. Given 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 Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

16. 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)	

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

18. The petitioner is 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 petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner 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 petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

19. 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.

20. Given the background of allegations against the petitioner, it becomes paramount to protect the members of society, detection staff 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 the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

21. 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.

22. 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."

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

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

25. 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.

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

**(ANOOP CHITKARA)**  
**JUDGE**

**03.03.2025**

Jyoti-II

Whether speaking/reasoned: Yes  
Whether reportable: No.