

231 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-14141-2025  
Date of Decision: 19.05.2025

Ajay Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Jasmine, Advocate for  
Mr. Rituraj Singh, Advocate  
for the petitioner.

Mr. Jasdev Singh Thind, D.A.G., Punjab.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0145	03.07.2023	Mahilpur, District Hoshiarpur	21/22/61/85 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. In paragraph 16 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are taken from the status report filed by the State. On 03.07.2023, based on a chance recovery, the Police seized 22 intoxicant injections make Buprenorphine and 5 grams of Tramadol from the petitioner's possession. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973.

4. The petitioner's counsel seeks bail on the grounds of prolonged pretrial custody. 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.

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

7. As per para 6 of status report, the weight and name and weight of drug is 9.97 grams of Buprenorphine and 5 grams of Tramadol.

8. Possessing 9.97 grams of Buprenorphine is an offence in the following terms:

Substance Name	BUPRENORPHINE
Quantity detained	9.97 Gram
Quantity type	Intermediate
<i>Drug Quantity in % to upper limit of Intermediate</i>	49.85%

<i>Specified as small &amp; Commercial in S.2(viia) &amp; 2(xxiii) NDPS Act, 1985</i>	
Notification No	S.O.1055(E)
dated	10/19/2001
Sr. No.	169
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	BUPRENORPHINE
Other non-proprietary name	*****
Chemical Name	21-cyclopropyl-7-alpha-[(S)-1-hydroxy-1,2,2-trimethylpropyl]-6,14,endo-ethano-6,7,8,14-tetrahydrooripavine
Small Quantity	1 Gram
Commercial Quantity	20 Gram

<i>Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) &amp; 2(xxiii) NDPS Act, 1985</i>	
Notification No	S.O.785(E)
dated	10/26/1992
Sr. No.	92
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	BUPRENORPHINE
Other non-proprietary name	*****
Chemical Name	21, cyclopropyl-7-μ-[(S)-1-hydroxy-1-2, 2-trimethylpropyl]-6, 14-endo-ethano-6,7,8,14-tetrahydrooripavine

9. Possessing 5 grams of Tramadol is an offence in the following terms:

Substance Name	Tramadol
Quantity detained	5 Gram
Quantity type	Intermediate
<i>Drug Quantity in % to upper limit of Intermediate</i>	2.00%

<i>Specified as small &amp; Commercial in S.2(viia) &amp; 2(xxiii) NDPS Act, 1985</i>	
Notification No	S.O.1762(E)
dated	4/26/2018
Sr. No.	238 ZH
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	Tramadol
Other non-proprietary name	*****
Chemical Name	*****
Small Quantity	5 Gram
Commercial Quantity	250 Gram

<i>Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) &amp; 2(xxiii) NDPS Act, 1985</i>	
Notification No	S.O.1761(E) & S.O. 3448(E)
dated	26-Apr-2018 & 26-Jul-2018
Sr. No.	110Y
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	Tramadol
Other non-proprietary name	*****
Chemical Name	*****

10. Section 2 (vii-a) of the NDPS Act defines commercial quantity as the quantity 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.

11. Per the custody certificate dated 16.05.2025, the petitioner's custody in this FIR is 07 months and 14 days.

12. Without commenting on the case's merits, and considering the quantity which is intermediate, coupled with the other factors peculiar to this case, further pre-trial incarceration is not justified at this stage, subject to the terms and conditions of this order. However, this order shall take effect from the time it is uploaded to this Court's official webpage.

13. 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 concerned Court and due to unavailability before any nearest Ilaqa Magistrate or duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

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.

17. Given the background of allegations against the petitioner, 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 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.

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. Tajiur 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. This bail is conditional, and the foundational condition is that if the petitioner 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, 24, or 27-A of the NDPS Act, then the State may apply for cancellation of this bail before the Trial Court, which shall be eligible, authorized, and shall have the discretion to cancel this bail.**

21. The concerned Judicial Magistrate/Trial Court is authorized to delete, modify, or relax any of the conditions mentioned above and is competent to do so in accordance with the law.

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

23. A certified copy of this order is not required for furnishing bonds. An Advocate for the Petitioner can download the order from the Court's official web page and attest it as a true copy. If needed, the attesting officer can verify its authenticity online and use the

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downloaded copy to attest bonds.

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

(ANOOP CHITKARA)  
JUDGE

19.05.2025  
Jyoti Sharma

Whether speaking/reasoned: Yes  
Whether reportable: No.