

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44535-2025
Reserved on: 10.09.2025
Pronounced on: 25.09.2025

Amritpal Singh @ Bobby

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ajay Kumar, Advocate
for the petitioner.

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

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
44	05.11.2024	Airport, Amritsar	21-C/22-C/23/29 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 21 of the status report, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	86	21.07.2024	22-C of NDPS Act	Sultanwind
2.	08	21.01.2025	21, 29 of NDPS Act	Sadar Moga

3. The facts and allegations are taken from the status report filed by the State. It would be appropriate to refer to paragraphs 4 to 6 of the status report, which reads as follows:

“4. That the deponent humbly submits that the present case FIR No. 44, dated 05.11.2024 under Section 21-C, 22-C, 23,29 NDPS Act, PS Airport, Amritsar was registered in pursuance to the secret information received by the police party headed by ASI Kanwaljeet Singh, CIA Staff-1, Amritsar to the effect that Karandeep Singh S/o Davinder Singh, Jeewan Singh S/o Sewak Singh and Manjinder Singh S/o Raj Singh along with their other accomplices are involved in selling heroin and Ice Drug and they are in contact of Pakistani smugglers. They get supplied consignments of heroin and ice drug through drone from Pakisan and supply further in Amritsar City and other districts of Punjab themselves and through their other accomplices. The above

said Karandeep Singh, Jeewan Singh and Manjinder Singh by riding in one car Toyota Etios, colour white were roaming for supply of heroin and ice drug to some customer and for making a deal, if they are apprehended and questioned strictly then heroin and ice drug can be recovered in huge quantity from them.

5. That the deponent humbly submits that during investigation, the above said accused Manjinder Singh, Jeewan Singh and Karandeep Singh, who were riding in the aforesaid car without number make Toyota Etios, colour white were apprehended the area village BalSachnder. During investigation, they all disclosed that they can get heroin and ice drug recovered but as it was late night of the intervening night of 05-06/11/2024; hence the recovery could not effected at that time and the above said accused persons were arrested in the present case FIR No. 44, dated 05.11.2024 (supra).

6. That the deponent humbly submits that during the course of investigation of the present case FIR No. 44, dated 05.11.2024 (supra), the above said accused persons Manjinder Singh, Jeewan Singh and Karandeep Singh that made voluntary disclosure statements dated 06.11.2024 before the investigating officer that someday ago, one person namely Baj had provided them heroin and ice drug, which they all put into one jute bag by wrapping in polythene packets and kept concealed near bridge of Sakki, ShahpurJajan and can get the same recovered. Therefore, based on their disclosure statements, 01 Kg of heroin, 01 Kg of Ice Drug and one electronic weighing scale were recovered in presence of Kuldeep Singh, PPS, the then Assistant Commissioner of Police, Detective, Amritsar on 06.11.2024, which were taken into police possession in accordance with law.

4. During the custodial interrogation of the main accused, he disclosed the name of the petitioner as one of the seller of the drugs; based on the disclosure statement, the police arraigned the petitioner as an accused by incorporating S. 29 of the NDPS Act.

5. 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.

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

7. As per paragraph 20 of the status report, the contraband is 1 kg heroin and 1 kg Ice.

8. Dealing in 1 kg of heroin in contravention of the NDPS Act, 1985, constitutes an offense under the following provisions and notifications:

Substance Name	Heroin/ Chitta/ Smack/ Brown Sugar/ Diacetylmorphine
Quantity detained	1 Kg
Punishable U/s	S.21(c) of NDPS Act, 1985

Quantity type	Commercial
Drug Quantity in % to upper limit of Intermediate	400.00%

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 & Commercial in S.2(viia) & 2(xxiii) NDPS Act, 1985</i>		
Notification No. & dated	S.O.1055(E)	10/19/2001
Sr. No.	56	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	Heroin	
Other non-proprietary name	*****	
Chemical Name	Diacetylmorphine	
Small Quantity	< 5 Gram (i.e. equivalent to 0.005 Kg)	
Commercial Quantity	> 250 Gram (i.e. equivalent to 0.25 Kg)	

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Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) & 2(xxiii) NDPS Act, 1985		
Notification No. & dated	S.(xvi)(d) NDPS Act, 1985 (61 of 1985), S.O. 821 (E)	11/14/1985

Sr. No.	2(xvi)(d)	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	*****	
Other non-proprietary name	*****	
Chemical Name	2(xvi)(d) diacetylmorphine, that is, the alkaloid also known as dia-morphine or heroin and its salts; Explanation.-- For the purposes of clauses (v) (vi), (xv) and (xvi) the percentages in the case of liquid	

	<p>preparations shall be calculated on the basis that a preparation containing one per cent. of a substance means a preparation in which one gram of substance, if solid, or one millilitre of substance, if liquid, is contained in every one hundred millilitre of the preparation and so on in proportion for any greater or less percentage:</p> <p>Provided that the Central Government may, having regard to the developments in the field of methods of calculating percentages in liquid preparations prescribed, by rules, any other basis which it may deem appropriate for such calculation.</p>
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9. Dealing in 1 kg of Ice in contravention of the NDPS Act, 1985, constitutes an offense under the following provisions and notifications:

Substance Name	METAMFETAMINE/Methamphetamine/ Ice/ Meth
Quantity detained	1 Kg
Punishable U/s	S.22(c) of NDPS Act, 1985
Quantity type	Commercial
Drug Quantity in % to upper limit of Intermediate	2000.00%

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 & Commercial in S.2(viia) & 2(xxiii) NDPS Act, 1985</i>		
Notification No. & dated	S.O.1055(E)	10/19/2001
Sr. No.	159	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN))	METAMFETAMINE	
Other non-proprietary name	methamphetamine	
Chemical Name	(±)-(S)-N,α-dimethylphenethylamine, (+)2methylamino-1-Phenylpropane	
Small Quantity	< 2 Gram (i.e. equivalent to 0.002 Kg)	

Commercial Quantity	> 50 Gram (i.e. equivalent to 0.05 Kg)
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Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) & 2(xxiii) NDPS Act, 1985		
Notification No. & dated	NDPS Act, 1985 (61 of 1985), S.O. 821(E)	11/14/1985

Sr. No.	19
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN))	METHAMPHETAMINE
Other non-proprietary name	*****
Chemical Name	(+)-2-Methylamino-1-phenylpropane

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. Section 37¹ of the NDPS Act mandates under sub-section (1) (b) of section 37 that no person accused of an offense punishable for offenses involving commercial quantity shall be released on bail unless- (i) the Public Prosecutor has been given an opportunity to oppose the application of release, and (ii) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that accused is not guilty of such offense and is not likely to commit any offense while on bail. Thus, the rigors of S. 37 of the NDPS Act apply in the present case, and the burden is on the petitioner to satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act. Given the legislative mandate of S. 37 of the NDPS Act, the Court can release a person accused of an offense punishable under the NDPS Act for possessing a commercial quantity of contraband only after recording reasonable satisfaction of its rigors.

12. It would be appropriate to refer to the evidence collected against the petitioner, which is taken from paragraphs 14 and 19 of the status report, which read as follows:

¹ **37. Offences to be cognizable and non-bailable.**—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—
(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and (ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

“14. That the deponent humbly submits that during the course of Investigation of the present case FIR No. 44, dated 5.11.2024 (supra), the call details record and customer application forms of mobile phone numbers of the present petitioner Amritpal Singh @ Bobby (99157-97421) and co-accused Karandeep Singh (6283056075), Jeewan Singh (9592131094) and Manjinder Singh (8725095087) were obtained, which were analyzed minutely from which the present petitioner Amritpal Singh @ Bobby and aforesaid other co-accused persons were found having links/contact with one another.

19. THE EVIDENCE AGAINST THE PETITIONER: That the deponent humbly submits that the present petitioner-accused-Amritpal Singh @ Bobby was nominated as co-accused on the basis of disclosure statement made by the co-accused Karandeep Singh and thereafter during the course of Investigation, based on the disclosure statement of the present petitioner Amritpal Singh @ Bobby, drug money Rs. 8.30 Lakh was recovered on the basis of disclosure statement of the petitioner Amritpal Singh @ Bobby and as per call details record of the petitioner Amritpal Singh @ Bobby and other co-accused persons namely Manjinder Singh, Karandeep Singh and Jeewan Singh, they were found having link/contact with one another.”

13. The petitioner, allegedly in cohorts with his accomplices and the cross-border drug mafia based in Pakistan, smuggled a large quantity of heroin into India. When a drug mafia has cross-border links with a hostile neighbor, gathering information through investigation across the border becomes almost impossible. Additionally, when evidence points to a cross-border drug mafia, the Court must be cautious to ensure that granting bail for a commercial quantity of drugs does not impair or affect India's sovereignty.

14. The State's Counsel argues that a plain reading of Section 37 reveals that the legislature intends to make the law stringent to curb the drug menace. It is further to be noticed that the provisions are couched in negative language, meaning that to grant bail, the Court needs to record a finding that there are reasonable grounds for believing that the petitioner is not guilty of the offense. The burden of proof is also on the petitioner to satisfy the Court about his non-involvement in the case. While interpreting the provisions of Section 37 of the NDPS Act, the Court must be guided by the objective sought to be achieved by putting these stringent conditions.

15. 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 exist, and the factors for bail become similar to the bail petitions under general penal statutes like IPC. 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 them 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 an offense and is not likely to commit any offense while on bail. If either of these 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 the accused is not guilty of the alleged offense. Even on fulfilling one of the conditions, the reasonable grounds for believing that the accused is not guilty of such an offense, the Court still cannot give a finding on the assurance that the accused is not likely to commit any such crime again.

16. The submissions made above and the grounds in the bail petition do not shift the burden the legislature places on the accused under S. 37 of the NDPS Act. The petitioner has not stated anything in the bail petition to discharge the burden put by the stringent conditions placed in the statute by the legislature under section 37 of the NDPS Act. The investigation reveals sufficient prima facie evidence to connect the petitioner with the crime; thus, the petitioner fails to make out a case for bail. Any detailed discussions about the evidence may prejudice the case of the petitioner, the State, or the other accused.

17. In *Union of India (NCB) v. Khalil Uddin*, decided on 21 Oct 2022, 2022 SCC OnLine SC 2109, Hon’ble Supreme Court holds,

[4]. According to the prosecution, contraband material weighing about 13 kgs. of morphine was found in a motor vehicle which was driven by co-accused named Md. Jakir Hussain. During the course of investigation, it was found that the motor vehicle was recorded in the name of Md. Nizam Uddin who had executed a sale letter and handed over the custody of the vehicle to accused Md. Abdul Hai and that accused Md. Jakir Hussain was the driver employed by accused Md. Abdul Hai and that contraband material in question was to be handed over to accused-Khalil Uddin, an owner of a tea shop.

[5]. The High Court by its order which is presently under challenge, directed release of both the accused as stated above on bail after they had undergone custody to the tune of about a year. Questioning grant of relief to said accused, the instant appeals have been preferred.

[7]. What emerges from the record is that large quantity of contraband weighing about 13 kgs of morphine was found in a car which was driven by Md. Jakir Hussain. Whether the role played by said Md. Jakir Hussain could get connected with both the accused is a question.

[8]. The answer to said question could be the statement recorded of Md. Nizam Uddin. The statement of Md. Jakir Hussain recorded under Section 67 of the Act has also named his owner accused Abdul Hai. We are conscious of the fact that the validity and scope of such statements under Section 67 has been pronounced upon by this Court in *Tofan Singh v. State of Tamil Nadu* . In *State by (NCB) Bengaluru v. Pallulabid Ahmad Arimutta* , the rigour of law

lay down by this Court in Tofan Singh was held to be applicable even at the stage of grant of bail.

[9]. However, going by the circumstances on record, at this stage, on the strength of the statement of Md. Nizam Uddin, though allegedly retracted later, the matter stands on a different footing. In our considered view, in the face of the mandate of Section 37 of the Act, the High Court could not and ought not to have released the accused on bail. We, therefore, allow these appeals, set aside the view taken by the High Court and direct that both the appellants be taken in custody forthwith.

[10]. We have been given to understand that the charge-sheet has been filed. In the circumstances, we direct the Trial Court to take up the matter and conclude the proceedings as early as possible and preferably within six months from the receipt of this order.

18. In Narayan Takri v. State of Odisha, decided on 10 Sep 2024, SLP (Crl.) 8198-2024, Hon'ble Supreme Court holds,

The petitioners are in custody since 28th May, 2022 for alleged commission of alleged offence under Section 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985. As per the FIR allegation, 125.3 kg. of "Ganja" was recovered from the petitioners.

[3]. It is not in dispute that the trial has commenced and that three prosecution witnesses have been examined till date.

[4]. Learned counsel for the petitioners submits that the third prosecution witness was examined as far back as on 28th January, 2024 and since then, no other prosecution witness has been examined. There is, however, no such averment in the petition.

[5]. Learned counsel appearing for the respondent submits that every endeavor shall be made on behalf of the prosecution to have all the witnesses examined by the end of this year.

[6]. The trial court is encouraged to expedite the trial and give its decision as early as possible, in accordance with law.

[7]. We, however, do not see any reason to interfere the impugned judgment and order at this stage; however, it is clarified that in the event the trial is not completed by the end of this year, the petitioners shall be at liberty to renew their prayer for bail before the trial court.

19. 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.

20. The petitioner's custody of around 10 months as per custody certificate dated 09.09.2025 cannot be termed prolonged, given the minimum sentence prescribed for the offense.

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21. Regarding the delay in the trial, if the trial does not conclude within one year and six months of the petitioner's custody, and the delay is not attributable to the petitioner, the petitioner may apply for bail before the trial Court. The Court shall not be influenced by the dismissal of bail on merits or by criminal history and shall decide it on changed circumstances and the prolonged trial.

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. **Petition dismissed.** Interim orders, if any, are recalled with immediate effect. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

25.09.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.