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

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**CRM-M-36006-2025
Decided on: 20.08.2025**

Rachhpal Singh Sandhu @ Warder Rachhpal Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vikas Gupta, Advocate, for the petitioner.

Mr. Jasdev Singh Thind, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
352	05.10.2024	Goindwal Sahib, Distt. Tarn Taran	22 of NDPS Act (29 of NDPS Act added later on), 52-A, 42 of Prison Act, 1894

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. As per paragraph 15 of the bail application and as per para 12 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	264	16.10.2022	18/21/25/27-A of NDPS Act & 42/52-A of Prison Act	ANTF, Sector-79, SAS Nagar, Punjab
2.	31	22.02.2024	21-C/27-A/25/29 of NDPS Act	Ajnala, Distt. Amritsar Rural

3. The facts and allegations are taken from the status report filed by the State. On 04.10.2024, the Warder Gurtej Singh and official Hardeep Singh seized 90 red intoxicant capsules, 60 cool lip packets and 9 pouches of jarda and clothes from the corridor of jail. During investigation, after watching CCTV footage, it was revealed that the petitioner placed the said polythene outside the small outer gate during his official duty. During search, 0.44 grams narcotic substance was found under his bed and some SIM cards were also recovered. Information was given to police by Assistant Superintendent Jail, Goindwal Sahib to police and present FIR was registered. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and BNSS, 2023. Further recovery of 189 white tablets were effected.

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



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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 his family.

6. 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.

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

REASONING:

8. It shall be appropriate to reproduce paragraph 8 of the status report, which reads as follows:

“NAME AND TOTAL WEIGHT OF CONTRABAND OF DRUG:

8. That it is submitted that 90 loose red intoxicant capsules having average weight as 557 mg/capsule, 0.44 grams light brown powder and granules having ingredients of Diacetylmorphine and 189 white colored tablets having average weight of 103 mg/tablet were recovered from the petitioner. The true copy of FSL report is annexed herewith as Annexure R-1.”

9. It shall also be expedient to reproduce the FSL report, which reads as follows:

“Envelope No. 1: On opening the envelope, it was found to contain Ninety (90) loose unlabelled red coloured capsules in polythene pouch.

Average weight = 557 mg/capsule.

Envelope No. 2: On opening the envelope, it was found to contain 0.44 grams light brown coloured powder & granules in polythene piece.

Envelope No. 3: On opening the envelope, It was found to contain One Hundred Eighty Nine (189) loose white coloured tablets, i.e. cut along with strip around the tablet, in polythene pouch.

Average weight = 103 mg/tablet”

10. As per the FSL report, Envelope no.1, the name of the contraband is Pregabalin, and a search of the notifications issued under the NDPS Act does not cover it.

11. As per the FSL report, Envelope no.2, the name of the contraband is Diacetylmorphine, and its weight is 0.44 grams, and it constitutes an offense under the following provisions and notifications:

Substance Name	Heroin/ Chitta/ Smack/ Brown Sugar/ Diacetylmorphine
Quantity detained	0.44 Gram



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Punishable U/s	S.21(a) of NDPS Act, 1985
FINE (in Rupees)	Rs. 2000
<i>Quantity type</i>	Small
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
0		
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	
Commercial Quantity	> 250 Gram	

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		



	<p>(v) (vi), (xv) and (xvi) the percentages in the case of liquid preparations shall be calculated on the basis that</p> <p>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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12. In *Kuldeep Singh alias Keepa v. State of Punjab*, CRM-M-60671-2024, Neutral Citation no. 2024-PHHC-170456, Decided on: 18.12.2024, this Court holds,

[83]. Consequently, when the contravention under the NDPS Act involves ‘Small Quantity’, the offences are ‘Bailable’. When the drug quantity falls in small category, the offence is bailable by operation of BNSS, 2023. Thus, any person accused of such an offence is entitled to bail without filing any bail application, subject to furnishing the requisite bail bonds.

13. Thus, as far as the possession of Heroin is concerned, it was a bailable offence.

14. As per the FSL report, Envelope no.3 contained Buprenorphine. As per para 8 of the status report, the total tablets was 189, and the weight of each tablet was 103 mg. A simple mathematical calculation would make the total weight as “189 Tablets x 103 mg equals 19,467 mg, which equals 19.467 grams”.

Substance Name	BUPRENORPHINE
Quantity detained	19.467 Gram
Punishable U/s	S.22(b) of NDPS Act, 1985
FINE (in Rupees)	Rs. 97000
<i>Quantity type</i>	Intermediate
Drug's Small & Commercial Qty. suggested by Committee report	
Notification No. & date	Expert Committee Report dated 24.03.1995 & 23.08.2001 (Small and



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	Commercial)
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<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.	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	

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<i>Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) & 2(xxiii) NDPS Act, 1985</i>		
Notification No. & dated	S.O.785(E)	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	

15. The quantity involved in this case is non-commercial as such rigorous of Section 37 of NDPS Act do not apply in this case.

16. 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



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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.

17. The petitioner is entitled to bail because when the quantity involved was either more or closer to the quantity seized in the present FIR, the Hon'ble Supreme Court has granted bail on prolonged custody in the following judicial precedent:

18. In *Rajesh v. The State of Haryana*, decided on 20-11-2024, SLP (Crl) 14037-2024, Hon'ble Supreme Court holds,

The petitioner is an accused in a case bearing FIR No.67 dated 25.01.2024 registered with Police Station Majesar, District Faridabad, Haryana for the offences punishable under Section 20 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter called "NDPS"). The allegation against the petitioner is that there is an alleged recovery of 1.200 kgs of ganja (contraband article) from him. The bail application of the petitioner was dismissed by the High Court. He has already undergone about 10 months in jail. Being aggrieved, he approached this Court.

Heard learned counsel for the petitioner and the respondent State.

The bail has not been granted by the High Court only for the reason that the petitioner is a habitual offender. Although, the contention of the learned counsel for the petitioner is that out of four cases, there is only one case of NDPS against the petitioner and the remaining cases (three in number) relate to Excise Act and not of NDPS.

Under these circumstances, considering the quantity of the contraband article and the period of incarceration of the petitioner, we are of the opinion that a case of bail is made out for the petitioner.

19. As per the custody certificate dated 16.08.2025, the petitioner's custody in this FIR is of 10 months and 06 days.

20. Following the judicial precedent mentioned above, without commenting on the case's merits, and considering the petitioner's pre-trial custody, the weight of the drugs, coupled with the other factors peculiar to this case, further pre-trial incarceration is not justified at this stage.

CONDITIONS:

21. 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.



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22. 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)

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

24. 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.

25. 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 desirable to impose the following additional condition.

26. 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.

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. 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."



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

20.08.2025
Jyoti-II

(ANOOP CHITKARA)
JUDGE

Whether speaking/reasoned:	Yes
Whether reportable:	No.