

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12660-2025
Reserved on: 01.05.2025
Pronounced on: 12.05.2025

Narsi Ram ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Aditya Sanghi, Advocate,
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
47	23.05.2022	Tappa Mandi, District Barnala, Punjab	15/29/25 of NDPS Act No.61 of 1985

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

2. In paragraph 24 of the bail petition and as per paragraph 10 F of the status report dated 11.03.2025, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	464	28.06.2023	15(c), 27-A, 29 of NDPS Act	Ajad Nagar, District Hisar
2.	205	2022	8/15 and 8/25 of NDPS Act	Khedapa
3.	37	2018	8/15, 8/29 of NDPS Act	Bap, Distt. Jodhpur

3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. That the brief facts of the case are, that on 23.05.2022 Inspector Baljit Singh, In charge CIA, Barnala, along with other police officials, was present near Grain Market, Ghunas, in connection with patrolling and checking of suspected persons. The police party received secret information to the effect that Tarlok Singh son of Piara Singh, Harmeet Singh son of Surjit Singh and Jagsir Singh alias Jaggi son of Buta Singh

have taken a factory on rent for manufacturing interlock bricks, which is situated adjoining the pipe factory of Piara Lal resident of Dhilwan. Whereas, the said persons are doing illegal activities there and also doing the business of selling the poppy husk on a large scale by bringing the same from outer State and stored the same in the said factory. The secret informer also disclosed that they also supplied the same by using their Swift car bearing registration no. PB-73A-1316 of white color. As the information was credible, a formal FIR was registered initially against Tarlok Singh son of Piara Singh, Harmeet Singh son of Surjeet Singh and Jagsir Singh @ Jaggi son of Buta Singh all residents of Rureke village, District Barnal.

3. That thereafter, a raid was conducted at the above said interlock tile factory and in the said factory, on the right side near the main gate, a Swift Car bearing registration no. PB-73A-1316 of white color was parked and two people were seen loading a plastic sack in the trunk of the said car. On seeing the police party, they tried to fled away; however, police officials nabbed them. On being enquired, one person out of the above said two persons disclosed his name and particulars as Tarlok Singh son of Piara Singh and the other person disclosed his name as Harmeet Singh son of Surjit Singh. That following the prescribed procedure search of car bearing registration no. PB-73A-1316 was conducted, which led to recovery of three plastic bags from the trunk of the car. Further, on the search of go-down, 47 plastic bags were also recovered. Thereafter, Investigating Officer had conducted the search of all the said 50 bags and found that there was poppy husk and pods of poppy plant in all the said bags. On weighing, the weight of each bag was found to be 20 kilograms. Thus, total 1000 kg poppy husk and pods of poppy plant were recovered from the spot. That the accused were arrested and recovered contraband was converted into parcels as per the prescribed procedure and was sent to forensic laboratory for testing.

4. That during interrogation, on 26.05.2022, accused Tarlok Singh got recovered another 120 kg of poppy husk and pods of poppy plant, in pursuance of his disclosure statement.

5. That during further investigation, on the basis of interrogation of the above said accused as well as on the basis of statement of one Mandeep Singh son of Gamdur Singh, recorded under section 161 Cr.PC, accused Baltej Singh son of Piara Singh and Hakam Singh son of Surjit Singh, were nominated as accused in the present case under Section 29 of NDPS Act.

On 28.05.2022, on the basis of interrogation of accused Tarlok Singh and Harmeet Singh as well as on the basis of statement of Ram Singh recorded under Section 161 Cr.PC, accused Nazar Singh @ Naja was also nominated as an accused in the present case. During further investigation, on 30.05.2022 accused Paramjit Singh was nominated as an accused and initially nominated accused Jagsir Singh @ Jaggi was also arrested in the present case. On 03.06.2022, during further investigation, on the basis of statement of one Swaranjit Singh ex sarpanch son of Mohan Singh recorded under section 161 Cr.PC, accused Balwinder Singh @ Ravi has also been nominated as an accused in the present case. That the accused Paramjit Singh was arrested on 10.08.2022 and during interrogation, he got recovered 3 kg of poppy pods.

6. That the accused Balwinder Singh @ Ravi was arrested in the present case on 18.09.2022 and further during investigation, the ownership of vehicle bearing registration no. PB-73A-1316 was verified as the said vehicle was registered in the name of Tarlok Singh and then offence under Section 25 of NDPS Act was deleted. On conclusion of the investigation qua accused Tarlok Singh, Harmeet Singh, Jagsir Singh @ Jaggi, Paramjit Singh and Balwinder Singh, challan against them was presented was on 16.11.2022.

7. That during further investigation, on 23.12.2022, on the basis of statement of one Daljit Kumar son of Ravinder Nath recorded under section 161 Cr.PC, accused Atul Kumar @ Raju was nominated as an accused in the present case and he was arrested in the present case on 27.12.2022. During further investigation, on 30.12.2022, on the basis of disclosure made by co-accused Atul Kumar and statement of one Jashanpreet Singh son of Gurchet Singh, recorded under section 161 Cr.PC, present petitioner Narsi Ram has been nominated, as an accused the present case.”

4. During the custodial interrogation, the co-accused named the petitioner, and based on this confession, the investigator arraigned him as an accused. The petitioner approached the Sessions Court for anticipatory bail, which was surprisingly denied.

5. 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 his family.

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

7. It would be appropriate to refer to the following portions of the status report dated 11.03.2025, which read as follows:

*“C. **The Evidence against the Petitioner:** That in the present case, during police questioning, co-accused Atul Kumar disclosed that he was friend of Hakam Singh resident of Dhilwan, as such he became friend of Hakam Singh's relative i.e. Tarlok Singh (main accused/convict). That further the co-accused Atul disclosed that he used to lend money to Tarlok Singh for purchasing poppy husk, who use to return the amount along with interest. That Tarlok Singh also used to give him poppy husk for further retail at cheap price or sometimes use to supply the same through Hakam Singh. That Tarlok Singh used to tell him that the entire consignments of poppy husk were bought by him from the present petitioner i.e. Narsi Ram s/o Narang Ram resident of Newa, Jodhpur, Rajasthan. That further on the same day one independent person, Jashanpreet Singh son of Gurchet Singh resident of Mehta got recorded his statement U/s 161 Cr.P.C to the effect inter alia that he had acquaintance with accused Atul Kumar @ Raju who used to run the furniture shop and two to three months ago, while he was at a tavern, he overheard the conversation of the accused Atul Kumar with another person, in which he was disclosing that earlier he used to purchase poppy husk from Tarlok Singh and retail the same, but since they all have been apprehended, as such now he is not able to retail poppy husk. That further, he overheard Atul Kumar saying that he will arrange the contact number of Narsi Ram from Tarlok Singh to purchase poppy husk, as Tarlok Singh earlier also used to purchase the entire consignments of poppy husk from Narsi Ram son Narang Ram r/o Neva District Jodhpur.*

*D. **The role of the Petitioner:** That as per the disclosures made by co-accused Atul Kumar and statement of one independent witness namely Jashanpreet Singh s/o Gurchet Singh r/o Mehta it is established that the present petitioner is the king pin of the said supply drug racket of poppy husk and poppy buds. That the present petitioner plays a pivotal role in supply and retail of poppy husk in the state of Punjab. It is he who used to supply first hand to accused/convict Tarlok Singh and thereafter Tarlok Singh used to retail the same at higher prices.”*

REASONING:

8. The name of the petitioner has been surfaced on the basis of disclosure

statement of co-accused Atul Kumar and the said co-accused has already been acquitted by the trial Court, vide judgment dated 05.01.2024 (Annexure P-8), as such, there is no reason to deny him bail.

9. 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.

10. For now, the petitioner has prima facie satisfied the first condition of section 37 of the NDPS Act to make a case for bail. Regarding the second rider of S. 37, this court will put very stringent conditions in this order to ensure that the petitioner does not repeat the offense.

11. In *Abida v. State of Haryana*, 2022:PHHC:058722, [Para 10], CRM-M-5077-2022, decided on 13-05-2022, this court observed as follows:

[10]. 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 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 offence, and is not likely to commit any offence while on bail. If either of these two 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 that the accused is not guilty of the alleged offence. Even on fulfilling one of the conditions, the reasonable grounds for believing that the accused is not guilty of such an offence, the Court still cannot give a finding on assurance that the accused is not likely to commit any such crime again. Thus, the grant of bail or denial of bail for possessing commercial quantity would vary from case to case, depending upon its facts.

[30]. From the summary of the law relating to rigors of S.37 of NDPS Act, while granting bail involving commercial quantities, the following fundamental principles emerge:

(a). In case of inconsistency, S. 37 of the NDPS Act prevails over S. 439 CrPC. [*Narcotics Control Bureau v Kishan Lal*, 1991 (1) SCC 705, Para 6].

(b). The limitations on granting of bail come in only when the question of granting bail arises on merits. [*Customs, New Delhi v. AhmadalievaNodira*, (2004) 3 SCC 549, Para 7].

(c). The provisions of Section 37 of the NDPS Act provide the legal norms which have to be applied in determining whether a case for grant of bail has been made out. [*UOI v. Prateek Shukla*, **2021:INSC:165 [Para 11]**, (2021) 5 SCC 430, Para 12].

- (d). In case the Court proposes to grant bail, two conditions are to be mandatorily satisfied in addition to the standard requirements under the provisions of the CrPC or any other enactment. [Union of India v. Niyazuddin SK &Anr, **2017:INSC:686 [Para 7]**, (2018) 13 SCC 738, Para 7].
- (e). Apart from granting opportunity to the Public Prosecutor, the other twin conditions which really have relevance are the Court's satisfaction that there are reasonable grounds for believing that the accused is not guilty of the alleged offence. [N.R. Mon v. Md. Nasimuddin, (2008) 6 SCC 721, Para 9].
- (f). The satisfaction contemplated regarding the accused being not guilty has to be more than prima facie grounds, considering substantial probable causes for believing and justifying that the accused is not guilty of the alleged offence. [Customs, New Delhi v. Ahmadalieva Nodira, (2004) 3 SCC 549, Para 7].
- (g). The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. [State of Kerala v. Rajesh, **2020:INSC:88 [Para 21]**, AIR 2020 SC 721, Para 21].
- (h). Twin conditions of S. 37 are cumulative and not alternative. [Customs, New Delhi v. Ahmadalieva Nodira, (2004) 3 SCC 549, Para 7].
- (i). At the bail stage, it is neither necessary nor desirable to weigh the evidence meticulously to arrive at a positive finding as to whether or not the accused has committed an offence under the NDPS Act and further that he is not likely to commit an offence under the said Act while on bail. [Union of India v. Rattan Mallik @ Habul, (2009) 2 SCC 624, Para 14].
- (j). If the statements of the prosecution witnesses are believed, then they would not result in a conviction. [Babua v. State of Orissa, (2001) 2 SCC 566, Para 3].
- (k). Merely recording the submissions of the parties does not amount to an indication of a judicial mind or a judicious application of mind. [UOI v. Prateek Shukla, **2021:INSC:165 [Para 11]**, (2021) 5 SCC 430, Para 12].
- (l). Section 37 departs from the long-established principle of presumption of innocence in favour of an accused person until proved otherwise. [Union of India v. Sanjeev v. Deshpande, (2014) 13 SCC 1, Para 5].
- (m). While considering the application for bail concerning Section 37, the Court is not called upon to record a finding of not guilty. [Union of India v. Shiv Shanker Kesari, (2007) 7 SCC 798, Para 11].
- (n). The confessional statement recorded under Section 67 of the NDPS Act is inadmissible in the trial of an offence under the

NDPS Act. [Tofan Singh v. State of Tamil Nadu, **2020:INSC:620**, (2021) 4 SCC 1]

(o). In the absence of clarity on the quantitative analysis of the samples from the laboratory, the prosecution cannot be heard to state at this preliminary stage that the accused possessed a commercial quantity of psychotropic substances as contemplated under the NDPS Act. [Bharat Chaudhary v. Union of India **2021:INSC:877 [Para 11]**, 2021 SCC OnLine SC 1235, Para 10].

(p). When there is evidence of conscious possession of commercial quantity of psychotropic substances, such accused is not entitled to bail given Section 37 of the Act as contemplated under the NDPS Act. [State by (NCB) Bengaluru v. Pallulabid Ahmad Arimutta, **2022:INSC:26 [Para 11]**, 2022 SCC OnLine SC 47, Para 12].

(p). Bail must be subject to stringent conditions. [Sujit Tiwari v. State of Gujarat, **2020:INSC:101 [Para 12]**, 2020 SCC Online SC 84, Para 12].

[31]. 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 subsist, and the factors for bail become similar to the bail petitions under general penal statutes like IPC.

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

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 at this stage.

CONDITIONS:

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. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

16. 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 Ilaqa 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.

17. 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)	

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

19. 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. 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.

20. 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.

21. Given the background of allegations against the petitioner, it becomes paramount to protect the members of society, detection squad 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 from today 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 it is 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.

22. 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 Hon'ble Supreme Court holds 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."

23. 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.

24. 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."

25. **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.

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

27. 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.

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

(ANOOP CHITKARA)
JUDGE

12.05.2025

Jyoti-II

Whether speaking/reasoned: Yes

Whether reportable: No.