

CRM-M-15849-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15849-2025
Reserved on: 06.08.2025
Pronounced on: 28.08.2025

Harpreet Kaur ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Renu Arora, Advocate for the petitioner.

Mr. Jasdev Singh Thind, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
82	09.07.2022	City Bhogpur, Distt. Jalandhar	21(C) of NDPS Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court fourth time under Section 439 CrPC seeking regular bail.
2. Per paragraph 19 of the bail petition as well as custody certificate dated 05.08.2025, the petitioner, has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1	20	14.07.2017	22/61/85 of NDPS Act	Bhogpur
2	26	18.02.2019	21/22/61/85 of NDPS Act	Bhogpur
3	52	12.04.2021	21B/61/85 of NDPS Act	Bhogpur
4	95	31.07.2021	21B/29 of NDPS Act	Bhogpur

3. Vide order dated 27.03.2025, the petitioner was granted interim bail, which continues to date.
4. The facts and allegations are taken from the reply filed by the State. On 09.07.2022 based on a chance recovery, the Police seized 260 gram heroin from the house of petitioner. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973.
5. The petitioner’s counsel seeks bail on the grounds of prolonged pretrial custody.
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. Counsel further submits that the petitioner would have no objection whatsoever to any stringent conditions that this Court may impose, including

CRM-M-15849-2025

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 Special Judge or Sessions 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 reply.

REASONING:

8. As per paragraph 10 of the reply, the name of the contraband recovered from the petitioner is heroin and its weight is 260 grams, and it constitutes an offense under the following provisions and notifications:

Substance Name	Heroin/ Chitta/ Smack/ Brown Sugar/ Diacetylmorphine
Quantity detained	260 Gram
Quantity type	Commercial
<i>Drug Quantity in % to upper limit of Intermediate</i>	104.00%

<i>Drug's Small & Commercial Qty. suggested by Committee report</i>	
Notification No. & date	Expert Committee Report dated 24.03.1995 & 23.08.2001 (Small and Commercial)
Punishable U/s	S.21(c) of NDPS Act, 1985

<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	

CRM-M-15849-2025

Commercial Quantity	> 250 Gram
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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 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 mililitre of substance, if liquid, is contained in every one hundred mililitre of the preparation and so on in proportion for any greater or less percentage: 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.

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 set forth by the Legislature under Section 37 of the NDPS Act.
10. The petitioner is entitled to bail because, in somewhat similar cases where the quantity involved was either greater than or close to the amount seized in the current FIR, the Hon’ble Supreme Court has granted bail after prolonged custody, as demonstrated by the following judicial precedent.

CRM-M-15849-2025

11. In Sabat Mehtab Khan v. The State of Maharashtra, decided on 03 Sep 2024, SLP (Crl) 8557-2024, Hon'ble Supreme Court holds,

The petitioner is an accused for the offences punishable under Sections 21(c) and 29 of the of the Narcotic Drugs and Psychotropic Substances Act and allegation is that 275 gms. and 50.01 gms of heroine has been recovered from him. His regular bail application was dismissed by the High Court. He has already undergone about 1 year six months in jail.

Heard learned senior counsel/counsel for the parties.

Considering the quantity of the contraband articles and the period of his incarceration, we are of the opinion that a case of bail is made out for the petitioner.

12. In Ramlal v. The State of Rajasthan, decided on 17 Sep 2024, SLP (Crl) 9510-2024, wherein Hon'ble Supreme Court granted bail to a first offender after one year and six months of custody who possessed 450 grams of smack (Heroin), and the holds as follows:

The petitioner and the other accused persons are accused for the offences punishable under Sections 8/21 & 8/29 of the Narcotic Drugs and Psychotropic Substances Act and allegation is that 450 gram of smack has been recovered from them. The bail application of the petitioner was dismissed by the High Court. Hence, he approached this Court. He has already undergone about 1 year and 6 months in jail.

Heard learned counsel for the petitioner. As per office report dated 13.09.2024, the service is deemed complete on the sole respondent-State but no one has appeared for the State.

Considering the period of incarceration of the petitioner and the fact that the petitioner has no criminal antecedents, we are of the opinion that a case of bail is made out for the petitioner.

13. In this FIR, as per the custody certificate dated 05.08.2025, the custody is of petitioner is 02 years, 08 months & 16 days.

14. The petitioner was granted interim protection, and at that time, the Court was also aware of the quantity being commercial. During the interregnum, there is no allegation that she had intimidated the witnesses, hampered with the trial. As such, no ground is made out to discontinue the interim protection.

15. Petition allowed in terms mentioned above. Interim order dated 27.03.2025 is made absolute. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

28.08.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.