

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18497-2025
Reserved on: 07.05.2025
Pronounced on: 19.05.2025

Daljit Singh @ Daljeet Singh @ Sonu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Nitin Narula, Advocate, for the petitioner.

Mr. Sukhwinder Singh Rai, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
123	16.10.2017	Fattu DHINGA, Distt. Kapurthala	22 of NDPS Act and Sections 401, 482 IPC

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 8 of the bail petition and as per paragraph 21 of the status report, the accused has the following criminal antecedents.

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	120	21.08.2021	457, 380, 427, 411 IPC	Adampur, Jalandhar
2.	80	05.08.2021	457, 380, 427 IPC	Mehna, Moga
3.	54	17.07.2021	457, 380, 427 IPC	Tibber, Gurdaspur
4.	242	19.07.2020	457, 380 IPC	Sadar Kapurthala, Distt. Kapurthala
5.	112	07.06.2020	457, 380 IPC	Chhehatra, Amritsar
6.	301	14.10.2017	457, 380 IPC	Sadar Ferozepur, Distt. Ferozepur
7.	102	10.10.2017	457, 380 IPC	Berowal, Tarn Taran
8.	83	02.09.2017	457, 380 IPC	Fatehgarh, Moga
9.	127	08.08.2017	457, 380 IPC	Bhogpur, Jalandhar (Rural)
10.	2	2015	380, 457 IPC	Sarhali, Distt. Tarn Taran

3. The facts and allegations are being taken from status report 17/18.04.2025 filed by the concerned Deputy Superintendent of Police. On 16.10.2017, when the police officials had erected barricading at Bus Stop Fattudhinga, then they received a secret information that Daljit Singh @ Sonu (petitioner), Dilbagh Singh, Bagha, Balwinder Singh, Suraj Singh and Bhutto are running a gang of thieves and they have committed thefts in various parts of Punjab by cutting ATMs with gas cutter and are also supplying narcotic substances. The police also got information that they are possessing stolen cars

and bikes. The informant also told about the presence of those people. Based on this information, the police erected the barricade and was able to spot the vehicle which led to nabbing of the aforesaid persons. The petitioner was found sitting in the car. After that, the investigator gave them option under the NDPS Act for their search to which they opted for search in the presence of a Gazetted Officer. Consequently, a Gazetted Officer was called and in between one Ex-Sarpanch was also summoned. In the presence of Gazetted Officer, search was conducted. Initially, Charanjit Singh @ Nandu was searched and from the right pocket of his pant, 1000 narcotic pills were found. Subsequently, the petitioner was searched and from right pocket of his pant, 1000 narcotics pills were recovered. Simultaneously, recovery were made from the other co-accused but this Court is concerned only with the recovery made from the trouser of petitioner-Daljeet Singh. As per report of laboratory, tablets had substance Alprazolam.

4. Counsel for the petitioner, on instructions from the petitioner submits that in case this Court grants him bail, he would not have any objection to any of the conditions including the condition that if he repeats the offence or commits the offence involving commercial quantity by violation of Sections 19, 24 and 27-A of NDPS Act or any other offence where the sentence prescribed is more than 7 years, he shall have no objection if the State files an application for cancellation of bail in the present case as well as other pending cases against the petitioner, if any. He shall also surrender fire arm, if any. He contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

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

6. It would be appropriate to refer to the following portions of the status report, which reads as follows:

"The evidence against the petitioner:

19. That when Daljit Singh @ Sonu, present petitioner, was searched and from right pocket of his pant a transparent polythene bag along with copper colour Narcotics Pills were recovered and Daljit Singh failed to produce any Doctor Certificate then the recovered Narcotics Pills were counted and it was found 1000 Narcotics Pills.

The role of the petitioner

20. That present petitioner when searched was found carrying narcotic pills without any prescription. That the recovered Narcotics Pills were counted and it was found 1000 Narcotics Pills were in possession of the petitioner."

REASONING:

7. Although, there is massive criminal history, however, considering the fact that the prosecution did not point out that 1000 tablets would fall in commercial quantity or not.

Prima facie the gross weight of 1000 tablets is likely to be less than 100 gram which is the non-commercial quantity for Alprazolam. This Court cannot deny bail to the petitioner simply because 5000 tablets were recovered, 4000 tablets from the personal pockets of other persons and, as such, this Court is concerned only with the bail to the petitioner for the possession, he was found. Earlier the petitioner was granted default bail in this case but later on he did not surrender.

8. On this, counsel for the petitioner submits that he undertakes to attend the trial on each and every date before the trial Court.

9. Given the quantity the rigors of S. 37 of the NDPS Act do not apply in the present case.

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. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1) (b)(ii) of the NDPS Act¹.

12. The pre-trial incarceration should not be a replica of post-conviction sentencing. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, as per paragraph 5 of the bail petition, the petitioner has been in custody since 31.05.2022. As per the same, the petitioner's total custody in this FIR is around 02 years, and 11 months. Given the penal provisions invoked viz-a-viz pre-trial custody, 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 further pre-trial incarceration at this stage.

13. 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 bail.

¹ Supreme Court of India, in Rabi Prakash v. The State of Odisha, SLP (Crl) 4169-2023, Para 4, decided on 13 July 2023

CONDITIONS:

14. 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/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.

15. 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)	

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

17. 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.

18. The possibility of the accused influencing the investigation, tampering with evidence, intimidating witnesses, and the likelihood of fleeing justice can be taken care of by imposing elaborate and stringent conditions. In *Sushila Aggarwal v. State (NCT of Delhi)*, 2020:INSC:106 [Para 92], (2020) 5 SCC 1, Para 92, the Constitutional Bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions.

19. 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 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.

20. ***This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.***

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

22. 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.

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

(ANOOP CHITKARA)
JUDGE

19.05.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.