

201-1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33931-2025

Reserved on: 13.08.2025

Pronounced on: 29.08.2025

KULDEEP SINGH PANJABI AND ANR.

...PETITIONERS

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rakesh Kumar Kachura, Advocate for the petitioners.

Ms. Pooja Nayar Sharma, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
38	26.03.2025	Doraha, District Khanna (Ludhiana)	21/27(a)/29 of NDPS Act, 1985 and Section 111(2) of BNS (offence under Sections 25/54/59 of Arms Act added later on)

1. The petitioners incarcerated in the FIR captioned above have come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. Per paragraph 19 of the bail application, the petitioners has no criminal antecedents.
3. The facts and allegations are taken from the order dated 17.06.2025 passed by the Additional Sessions Judge, Ludhiana. On 26.03.2025, based on a chance recovery, the Police seized 20 grams of heroin, Rs.3,50,000/- Indian currency notes and 33 Foreign American Dollar were recovered from the possession of the co-accused, namely, Anuj @ Lalla, Ravi Kumar @ Kartoos, Suraj Singh and Swarandeep Singh. On the disclosure statement of Ravi Kumar one pistol .32 bore country made, two cartridges were recovered. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973.During the investigation, the name of petitioners surfaced and they were arrested and 13 pistol .32 bore recovered from them.
4. The petitioners' counsel seeks bail on the grounds of prolonged pretrial custody.
5. Counsel for the petitioners submits that the petitioners were not named in the FIR and they were nominated on the basis of disclosure statement of co-accused. The petitioners' counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their family.
6. The petitioners' counsel submits that the petitioners would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioners 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 petitioners shall have no objection.

7. The State’s counsel opposes bail on instructions.

REASONING:

8. Dealing in heroin which is 20 grams 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	20 Gram
Quantity type	Intermediate
<i>Drug Quantity in % to upper limit of Intermediate</i>	8.00%

<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(b) 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	
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 di- 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. Given the quantity involved, 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 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

11. No recovery of contraband effected from the petitioner as rigors of Section 37 NDPS Act not apply in this case, however, from the possession of petitioners 13 pistol country made recovered which reflects that they are involved in the crime and Section 111(2) is there as one of offence.
12. A perusal of the bail petition and the attached documents prima facie points towards the petitioner's involvement but 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.
13. The petitioner's custody of around 04 months cannot be termed prolonged, given the minimum sentence prescribed for the offense.
14. Regarding the delay in the trial, if the trial does not conclude within one year 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.
15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
16. **Petition dismissed.** All pending applications, if there are any, are disposed of.

(ANOOP CHITKARA)
JUDGE

29.08.2025
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Whether speaking/reasoned:	Yes
Whether reportable:	No.