

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3929-2025
Reserved on: 03.04.2025
Pronounced on: 28.04.2025

Bal Krishan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. J.K. Singla, Advocate and
Ms. Shivani Singla, Advocate,
for the petitioner.

Ms. Navreet Kaur Barnala, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
241	30.11.2024	City Budhlada, Distt. Mansa	20, 21, 22, 61 & 85 of NDPS Act and Sections 111 and 223 of BNS, 2023

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. As per paragraph 8 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	133	09.08.2020	20, 21, 22 of NDPS Act	City Budhlada
2.	16	21.01.2021	61 of Excise Act	City Budhlada
3.	103	01.08.2021	61 of Excise Act	City Budhlada
4.	43	28.03.2023	21-B of NDPS Act	City Budhlada
5.	164	05.09.2023	307, 323, 148, 149 IPC	City Budhlada
6.	262	13.12.2023	21-B of NPDS Act	City Budhlada
7.	132	27.06.2024	27, 29 of NDPS Act	City Budhlada

3. The facts and allegations are being taken from status report dated 15.02.2025 filed by the State. On 30.11.2024, a secret information was received qua the involvement of accused person in drug peddling. On 01.12.2024, a raid was conducted by the police party. At the time of raid, accused persons namely, Pawan Singh and Ranga Ram were arrested with 45 intoxicating capsules containing Pregabalin, 60 intoxicating capsules and

280 grams of Ganja were recovered from them respectively. In addition to that, 150 grams of Ganja was effected from co-accused Dharma. The allegations against the petitioner are that he and remaining accused are members of a gang of drug paddlers and said gang is being operated by accused Lachho Devi.

4. Counsel for the petitioner submits that he would have no objection in case any stringent conditions this Court might put upon the petitioner including surrender of fire arms, and in case, petitioner repeats the offence, where the sentence prescribes 07 years or more, the State shall file an application for cancellation of bail. He further 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 dated 15.02.2025.

6. It would be appropriate to refer to the following portions of the status report dated 15.02.2025, which read as follows:

“4. The role of the petitioner

4.A. From the investigation proceedings, it was ascertained by the answering deponent that all the accused persons including the petitioner had formed a gang of drug peddlers, out of which some gang members are engaged in procurement of drugs, some keep vigilance so as to easement in drug paddling and some are engaged in supply of drugs. Further, petitioner Bal Krishan @ Ballu is stated to be one of the member of the drug paddlers and the said gang is being operated by accused Ranga Ram and the ganja recovered from accused Dharma was found to be supplied by petitioner Bal Krishan @ Ballu. As such, present case/FIR was found to be rightly registered against the petitioner Bal Krishan @ Ballu.

5. The evidence against the petitioner

From the investigation proceedings, it was ascertained by the answer deponent that as per the information given by the secret informer petitioner Bal Krishan @ Ballu is stated to be one of the member of the Gang dealing in the drug paddlers and the said gang is being operated by accused Ranga Ram. As such, role of the petitioner is duly established, hence present case/FIR has been rightly registered against the petitioner Bal Krishan @ Ballu.”

REASONING:

7. Name of the petitioner cropped up in the secret information, there is no recovery from the petitioner, except the oral statement, nothing is on record to connect the petitioner with the co-accused from whose possession recovery of contraband was effected. Given the undertaking by counsel for the petitioner that in case the petitioner

repeats the offence where the sentence prescribes is seven years or more, then the State may file an application for cancellation of bail, as such, she is entitled to bail.

8. As concerned for the involvement in drug trafficking, no recovery or activity of the petitioner with the drug peddler is available on record which are sufficient grounds to grant bail to the petitioner.

9. Given this, 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 similar to the offence regular statutes.

11. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

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

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.

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. 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.

16. 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)	

17. The bail order is subject to the petitioner's complying with the following terms.

18. 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, 1872/ Section 23 of BSA, 2023. 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.

19. 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.

20. 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 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.

21. 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."

22. 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.

23. 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."

24. **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.**

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

26. 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.

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

(ANOOP CHITKARA)
JUDGE

28.04.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.