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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7872-2025 (O&M)
Date of Decision : 19-05-2025

Charanjit Singh

.....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Manjot Kaur, Advocate for
Mr. Satnam Singh Gill, Advocate for the petitioner.

Ms. Harpreet Kaur, AAG, Punjab.

ANOOP CHITKARA, J. (Oral)

FIR No.	Dated	Police Station	Sections
8	25.1.2024	Urban Estate Patiala, District Patiala	18, 25, 27, 29 NDPS Act

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. Per paragraph 20 of the bail petition, one more case has been registered against the petitioner, however, he has not mentioned the details thereof. Further, as per paragraph 13 of the petition, he was arrested on 25.1.2024 in the FIR captioned above.
3. The facts and allegations are taken from the reply filed by the State dated 22.3.2025, which read as under:-

“5. That the brief facts of the case are that on 25.01.2024 when ASI Rajesh Kumar 2264/Pta along with his police party was present near DMW Bridge, near Virk Colony, Patiala in connection with Nakabandi and checking/search of suspicious persons then at about 1.10 pm a Special informer arrive there and informed ASI Rajesh Kumar that Manjit Singh alias Bunty son of Mukhtiar Singh, r/o Village Dehi, Distt Boondi, Rajsthan and Charanjit Singh son of Satnam Singh r/o Ward no.20, Dehi, VPO Kesorai Patan, Distt Boondi, Rajsthan, who were in the illegal business of trafficking Opium, were coming in their car make Verna, colour white, registration no. HR-05-BJ-947 from Urban Estate side to Sirhind Road Patiala and if the vehicles plying on this road be checked thoroughly then a heavy quantity of Opium could be recovered from them.

6. That as the information was reliable and trustworthy, a Rukka by hand through HC Vikramjit Singh, 28 was immediately sent by ASI Rajesh Kumar to the Police Station, Urban Estate for registering a case u/s 18/61/85 NDPS Act

against Manjit Singh alias Bunty and Charanjit Singh. Accordingly, the said FIR 0008 dated 25.01.2024 was registered at PS Urban Estate Patiala against the said Manjit Singh alias Bunty and Charanjit Singh

7. That thereafter the checking of all the vehicles was started by ASI Rajesh Kumar and his police party. After sometime the above- mentioned car make Verna, colour white, registration no. HR-05- BJ-947 was seen coming from Bus Stand side which was being driven by a clean shaven (mona) young man and another clean shaven (mona) young man was sitting beside him on the other seat. They were nabbed by the police party. ASI Rajesh Kumar disclosed his identity to them and on his asking to disclose their identity, the car driver told his name as Manjit Singh alias Bunty son of Mukhtiar Singh, r/o Village Dehi, Distt Boondi, Rajsthan and the other person told his name as Charanjit Singh son of Satnam Singh r/o Ward no.20, Dehi, VPO Kesorai Patan, Distt Boondi, Rajsthan (the petitioner). Thereafter, their above said car was searched as per law and during the search a bag of black colour was recovered from underneath the conductor seat of the car, which when opened and checked then brown coloured Opium was found in it wrapped in a transparent polythene envelope which on weighing was found to be 2.600 kgs in weight. The recovered Opium as well as the said car HR-05-BJ-947 were taken into police custody as per law and both the above said accused Manjit Singh alias Bunty and Charanjit Singh (the petitioner) were arrested as per law.”

4. 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 their family.

7. The State’s counsel opposes bail and refers to the reply.

REASONING:

8. As per paragraph 15 of the reply, the total recovery made in the case is as under:

“15. That the contraband recovered in this case is Opium, weighing 2.600 kgs. As per the Chemical Examiner's report from FSL Mohali (Report No. 27/2024/Toxi/FSL/Pb dated 28.03.2024), the substance has been identified as Opium having 4.56% Morphine content. This quantity of Opium falls under the category of "commercial quantity" as per the NDPS Act, 1985, which carries more severe penalties under the law.”

9. It would also be relevant to reproduce paragraph 13 of the reply, whereby the role assigned to the petitioner has been mentioned, as under:-

“13. That it is respectfully submitted that the petitioner, Charanjit Singh, was an active participant in the illegal trafficking of Opium. As per the investigation, the petitioner was traveling in a white Verna car (Registration No. HR-05-BJ-947) alongside co-accused Manjit Singh alias Bunty when they were apprehended during a police checkpoint. The petitioner was found in joint possession of 2.600 kgs of Opium, which was recovered from underneath the conductor seat of the said vehicle. The petitioner's Dope Test conducted on 29.01.2024 at Mata Kaushlya

Hospital, Patiala was found to be Morphine Positive, establishing his consumption of narcotic substances.”

10. 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.

11. The petitioner is entitled to bail because for the same drug, and when the quantity involved was either more or closer to the quantity seized in the present FIR, the Hon’ble Supreme Court has granted bail on prolonged custody in the following judicial precedent.

12. In *Miku Kumar Yadav v. The State of Jharkhand*, SLP (Crl.) No. 148-2025, decided on 07-04-2025, Hon’ble Supreme Court holds,

“The petitioner is an accused for the offences punishable under Sections 414 read with Section 34 of the Indian Penal Code and Sections 18(b), 21(c), 22(c), and 29 of the NDPS Act. His bail application was rejected by the High Court vide impugned order dated 06.12.2024. He has already undergone more than one year and six months in jail. The allegation against the petitioner is that 3 Kgs of opium was recovered from his possession.

Office Report dated 04.04.2025 indicates that the respondent - State has not filed appearance despite service of notice.

Considering the period of incarceration of the petitioner and the entire facts and circumstances of this case, we are of the opinion that a case of bail is made out for the petitioner and therefore, the prayer for bail is allowed.”

13. Per the custody certificate dated 4.5.2025, the petitioner's custody in this FIR is 1 year, 3 months and 5 days.

14. 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.

15. Following the judicial precedent mentioned above, without commenting on the case's merits, and considering the petitioner’s pre-trial custody, the weight of the drugs, coupled with the other factors peculiar to this case, further pre-trial incarceration is not justified at this stage, subject to the terms and conditions of this order. However, this order shall take effect from the time it is uploaded to this Court's official webpage.

CONDITIONS:

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 concerned Court and due to unavailability before any nearest Ilaqa

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

Magistrate or 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.

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 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, 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 of release from prison 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 the Hon’ble Supreme Court held 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 Md. Tajiur Rahaman v. The State of West Bengal, decided on 08-Nov-2024, SLP (Crl) 12225-2024, the 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.”

23. ***This bail is conditional, and the foundational condition is that if the petitioner 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, 24, or 27-A of the NDPS Act, then the State shall apply for cancellation of this bail before the Trial Court, which shall be eligible, authorized, and shall have the discretion to cancel this bail.***

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

25. A certified copy of this order is not required for furnishing bonds. An Advocate for the Petitioner can download the order from the Court's official web page and attest it as a true copy. If needed, the attesting officer can verify its authenticity online and use the downloaded copy to attest bonds.

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

19-05-2025
AK

(ANOOP CHITKARA)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO