



CRM-M-12950-2025

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Decided on :16.07.2025

Sukhbir Singh @ Sukha

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. P.S. Sekhon, Advocate for the petitioner.

Mr. Manjinder Singh Bhullar, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, seeking regular bail in case FIR 103 dated 26.07.2023, under Sections 21, 22 of NDPS Act, registered at Police Station Kot Ise Khan, District Moga.

2. As per the allegations, 45 tablets containing the salt Etizolam, weighing 9.27 grams (against the maximum prescribed limit of 2.5 grams for non-commercial quantity), and 5 grams of Heroin were recovered from the possession of the petitioner.

3. Learned counsel for the petitioner contends that although the quantity of Etizolam recovered from the petitioner falls under the category of commercial quantity, the recovered quantity of Heroin falls under the category of small quantity.

Learned counsel for the petitioner has produced a copy of the order dated 09.07.2025 passed in CRM-M-24404-2025 and submits that the co-ordinate Bench of this Court concluded that the salts Alprazolam and Etizolam are prescribed for similar ailments and differ only slightly in potency. It was further observed that the commercial



quantity notified by the Central Government for Etizolam (2.5 grams) is, in fact, less than the small quantity prescribed for Alprazolam (5 grams), and there is no data suggesting that Etizolam is 40 times more potent than Alprazolam. Copy of order dated 09.07.2025 is taken on record. The relevant excerpt of the said order is reproduced herebelow:

“4. He further contends that the Central Government vide notification bearing No. S.O.1276(E) dated 23.03.2021, Etizolam was brought under the ambit of the NDPS Act. It was specified that 0.05g would constitute to be small quantity while 2.5g would be the commercial quantity in this regard. However, a perusal of the Pre-Review Report presented on Etizolam by the World Health Organisation’s Expert Committee on Drug Dependence, at its 37th Meeting (16-20 November, 2015), would indicate that Etizolam is comparable to Alprazolam in its nature and effects, both being derivatives of benzodiazepine. Based on its chemical structure, it is also unlikely to convert Etizolam into a different controlled substance. In fact, the report concludes that nature of possible abuse of Etizolam does not warrant international control. Moreover, there is also a scarcity of empirical data concluding overdose of Etizolam can result in death. While two doses of 0.5mg Etizolam per day would have the same impact as two doses of 0.5mg Alprazolam, the huge difference in the notified commercial quantities for the same is rather curious

<i>Controlled Substance</i>	<i>Small Quantity</i>	<i>Commercial Quantity</i>
<i>Alprazolam</i>	<i>5g</i>	<i>100g</i>
<i>Etizolam</i>	<i>0.05g</i>	<i>2.5g</i>

5. In spite of the fact that both the notified substances are prescribed to cure the same ailments and have a similar effect, with minor difference in potency, the commercial quantity notified by the Central Government for Etizolam (2.5g) is even lesser than small quantity prescribed for Alprazolam (5 g). There is no data to even remotely suggest that the potency of Etizolam is 40 times that of Alprazolam

6. With that in view, a study of Section 22 of the NDPS Act is called for-

22. Punishment for contravention in relation to psychotropic substances.—



Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses any psychotropic substance shall be punishable,--

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to 2[one year], or with fine which may extend to ten thousand rupees, or with both;

(b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine .

(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

The mandatory minimum punishment for cases involving commercial quantities is 10 years, which may be extended to 20 years. In view of the nature of Etizolam, such stringent punishment does not satisfy the test of proportionality. The impact of Etizolam and the meagre amount of commercial quantity i.e. 2.5g notified by the Central Government does not align with the gravity of the offence alleged.”

Counsel submits that in the cited case, there was a recovery of 2.76 grams of Etizolam, and considering the custody period of 9 months already undergone, the petitioner in that case was granted the concession of bail. Relying on the strength of the aforesaid bail order, Mr. P.S. Sekhon, learned counsel for the petitioner, prays for grant of bail, submitting that the petitioner has been in custody for nearly two years (i.e., one year, eleven months, and sixteen days).

4. On the other hand, learned State Counsel does not dispute the recovery of Heroin, which falls under small quantity, however, he points out that the quantity of Etizolam recovered is nearly three times more than the prescribed non-commercial quantity.

Learned State Counsel also submits that the petitioner is involved in three other criminal cases, and in one of those cases, he has already been convicted and sentenced to a period of imprisonment equivalent to the period already undergone, i.e., 19 days. He, therefore,



opposes the grant of bail, contending that petitioner does not deserve any leniency.

5. I have considered the order dated 30.08.2024 also passed by the Coordinate Bench in CRM-M-15588-2024, wherein Hon'ble Mr. Justice Anoop Chitkara observed as follows:

“Even in the present case, the quantity involved pertains to a manufactured drug, i.e., Etizolam tablets, which is not a hard drug like heroin, charas, opium, or other synthetic substances. Thus, the petitioner is entitled to bail, in view of the ratio laid down in Chitra Basu’s case (supra).”

In the light of the rival submissions, I have also considered the observations made by the Coordinate Bench in its order dated 09.07.2025 passed in CRM-M-24404-2025. Taking into account all relevant circumstances, particularly the fact that the petitioner is about to complete two years of incarceration, also that the prosecution has, till date, failed to exhaust the list of prosecution witnesses, as only one prosecution witness examined out of a total of seventeen, this Court finds merit in the prayer made on behalf of the petitioner.

This Court is of the considered opinion that the petitioner deserves an opportunity for rehabilitation and reintegration into society. Without expressing any opinion on the merits of the case, and keeping in view the substantial period of incarceration already undergone by the petitioner and the slow pace of trial, this Court is of the view that the petitioner's right to personal liberty cannot be curtailed indefinitely.

6. Consequently, prayer made in the present petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/Illaq Magistrate/ Duty Magistrate concerned, if not required in any other case.

7. Any of the discussion done and recorded hereabove, shall not be construed as an expression of opinion on the facts of the case. Therefore, trial Court is expected to decide the case by taking an



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independent view, on the basis of evidence available on record, as expeditiously as possible in accordance with law.

8. It is further made clear that if, in future, the petitioner is found to be directly involved in similar activities, the prosecution would be at liberty to seek cancellation of bail.

9. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

16.07.2025
Rashmi

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No