

307IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13203-2025
Reserved on: 07.05.2025
Pronounced on: 19.05.2025

MANU ALIAS MANI ALIAS MONU...PETITIONER

VERSUS

STATE OF PUNJAB...RESPONDENT

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Satnam Singh Gill, Advocate for the petitioner.
Mr. Sukhwinder Singh Rai, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
107	18.05.2021	Passiana, District Patiala	20/22 of 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 22 of the bail application and the reply, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	165	22.06.2017	61 of Excise Act	Sadar Samana, District Patiala

3. The facts and allegations are taken from the reply filed by the State. On 18.05.2021, when the police party was on patrolling, they along with the husband of Sarpanch, Jagtar Singh knocked the door of one Gulab Singh, who fled away from his terrace. Thereafter, the police party conducted search of his house and recovered 350 gms ganja in a polythene bag. After that, a car make Alto bearing registration No.PB-03-BA-6028 parked in the house of Gulab Singh was checked and one electronic weighing scale along with drug money amounting to Rs.29,800/- was recovered from it. After this, when police party reached near Government Elementary School, village Langroi then they saw a car parked and it appeared that it had been abandoned. The police inquired the owner of the car but no one came. Subsequently, witness-Jagtar Singh identified the car belonging to petitioner and it was unlocked and police found 40 boxes of intoxicant tablets containing Tramadol Hydrochloride, every box had 10 strips, thus 20,000 intoxicant tablets were recovered. The car was also taken in possession. The total weight of the tablets was 7.4 kg and the Tramadol greater than 200-250 grams falls in commercial category. As such, the quantity was in commercial. However, petitioner is in custody for 02 years, 03 months and 09 days. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973.

4. The petitioner's counsel seeks bail on the grounds of prolonged pretrial custody.

5. Counsel for the petitioner on instructions submits that he has no objection if while granting bail, this Court imposes any stringent conditions and undertakes that petitioner shall not indulge himself in the offence involving the commercial or intermediate quantity or the offence which falls under Sections 19/24/27A of NDPS Act. He further submits that if the petitioner involves himself in the said offences, where the sentence imposed is more than 07 years, he has no objection if the State files application for cancellation of his bail. He further contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

6. The State's counsel opposes bail and refers to the reply.

REASONING:

7. As per para 13 of reply, the weight and name of drug is 7400 grams, and it contains Tramadol Hydrochloride.

8. 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 put in place by the Legislature under Section 37 of the NDPS Act.

9. Per the custody certificate dated 04.05.2025, the petitioner's custody in this FIR is of 02 years, 03 months and 09 days.

10. 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, Hon'ble Supreme Court had granted bail on prolonged custody in the following judicial precedents:

11. In *Junaid Alam v. State of Uttarakhand*, decided on 12 Aug 2024, SLP(Crl.) 7708-2024, Hon'ble Supreme Court holds,

[2]. It is pointed out that the petitioner has been in custody for last more than 18 months since he was arrested on 25.01.2023. It is then submitted that only 3 out of the 10 cited prosecution witnesses have been examined and they have not said anything to connect the petitioner with the crime.

[3]. The learned counsel for the State would submit that the concerned Contraband are medicinal drugs but they are sold for profit. Moreover, it is of commercial quantity.

[4]. We have perused the nature of the Contraband i.e., the prohibited medicines (SYP Codectus 100 Bottles (100 Ml each), Cap Pyeevon Spas Plus 720 Cap Parvion Spas 800 Capsules, Spasonof NF 960 capsules, Capsules Spasmoproxyvon Plus 144, Proxywell Spas 2568 Capsules, Alprasaft Table 600 Tablets, Pyeevon Spas Plus 32 Capsules).

[5]. Having considered the above and the fact that the trial is unlikely to conclude on a near date, we are of the view that the petitioner – Junaid Alam deserves to be granted bail. It is ordered accordingly. Appropriate bail conditions be imposed by the trial court.

12. 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.

13. Following the judicial precedent mentioned above, without commenting on the case's merits, and considering the petitioner's pre-trial custody, weight of the drugs, and absence of any criminal antecedents coupled with the other factors peculiar to this case, further pre-trial incarceration is not justified at this stage.

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. 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 of release

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

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.

19. 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.”

20. 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.”

21. ***This bail is conditional, and the foundational condition is that if the petitioner repeats the offence where the quantity involved is more than half of the intermediate, or commercial, or violates S. 19, 24, or 27-A of the NDPS Act, then the State shall file an application for cancellation of this bail before the Trial Court, which shall have discretion to cancel this bail.***

22. This Court shall not be cited as a precedent for the reason that this Court granted bail only on custody but also the fact that the recovery was from an abandoned car and there was insufficient evidence to connect the car with the petitioner.

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

24. 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.

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

19.05.2025
renubala

(ANOOP CHITKARA)
JUDGE

Whether speaking/reasoned: Yes Whether reportable: No.