



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

277

CRM-M-13094-2025
Date of Decision: 14.05.2025

Sandeep Cheema

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sandeep Saini, Advocate,
for the petitioner.

Mr. Naveen Kumar Sheoran, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
47	12.02.2023	Civil Line, Kaithal, Haryana	18-B and 29 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. In paragraph 13 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are taken from the status report filed by the State. On 12.02.2023, based on prior information, the Police seized 4 Kg opium from the petitioner's possession. 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. 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 his family.
6. The State's counsel opposes bail and refers to the status report dated 28.04.2025.
7. It would be appropriate to refer following portions of the status report dated 28.04.2025, which reads as follows:

"12. That regarding the role of the petitioner it is submitted that Sandeep Cheema was apprehended by the police on 12.02.2023 while carrying a



bag containing 4 KG of opium near the Railway Gate, Kaithal. Following legal procedures, his search was conducted in the presence of a gazetted officer, leading to the recovery of the contraband. During interrogation, he made disclosure statements, confessing his involvement in the crime and revealing that he had purchased the opium from co-accused Surender Yadav at the rate of Rs.70,000/- per KG. He admitted to transferring Rs.35,000/- via Paytm and paying Rs.75,000/- in cash to Surender Yadav, with the remaining amount agreed to be paid after selling the drugs. Further investigation revealed that Surender Yadav had procured the opium from his own supplier, whose identity was also under scrutiny. The case involved digital payment evidence, mobile records, and subsequent forensic confirmation of the seized substance as opium.”

REASONING:

8. As per para 8 of status report, the name of drug is opium and it contains 1.4 w/w Morphine.

9. 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.

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 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.

12. As per the custody certificate dated 12.05.2025, the petitioner's custody in this FIR is of 02 years, 02 months and 23 days.



13. 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.

14. 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, subject to the terms and conditions of this order. However, this order shall come into force from the time it is uploaded on this Court's official webpage.

CONDITIONS:

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 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.

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. This order is subject to the petitioner's complying with the following terms.

18. 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.

19. 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.

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



[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.

20. 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."

21. 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."

22. **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 may file an application for cancellation of this bail before the Trial Court, which shall have discretion to cancel this bail.**

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.

(ANOOP CHITKARA)
JUDGE

14.05.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.