

CRM-M-15120-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15120-2025
Reserved on: 06.05.2025
Pronounced on: 19.05.2025

Usman Rehman ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Surjit Singh Swaich, Advocate and
Ms. Ishani Goyal, Advocate
for the petitioner.

Mr. Sukhwinder Singh Rai, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
305	21.12.2022	A Division, Amritsar City	22C/27A/29/61/85 of NDPS Act and Sections 420, 468, 471, 120B & 34 IPC

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 24 of the petition, petitioner declares that on more FIR is pending against the petitioner which is under Section 174 IPC. However, counsel for the petitioner brought to the notice of this Court at the time of arguments they have incorrectly mentioned that petitioner is involved in FIR under Section 174 IPC.
3. The Facts of the case are being taken from status report dated 08.04.2025, which reads as follows:-

“That the brief and relevant facts of the case are that the aforesaid FIR No. 305 dated 21.12.2022 was registered at the Police station Division-A, Amritsar City, on the basis of a 'Ruqa' sent by Inspector Rajwinder Kaur No. 2907/TT, Station House Officer, Police Station Division-A, Amritsar City, stating therein that on 21.12.2022, she along with a police party was present near the Suraj Chanda Tara Cinema in search of anti-social elements, where she received a secret information that co-accused Nishan

Sharma, a supplier of intoxicant tablets was standing at the Bus Stand, Amritsar with a sack packed with intoxicating tablets and capsules and if the raid was conducted, he could be apprehended with a huge quantity of intoxicating tablets. On finding the information credible, Inspector Rajwinder Kaur along with her police party reached at the spot as per the information and found a youngster having a sack on his head waiting there for someone but on seeing the police party, he tried to throw the sack but he was immediately apprehended and on asking to disclose his identity, disclosed his name as Nishan Sharma. Thereafter, the then Assistant Commissioner of Police (East), Amritsar City was called at the spot by Inspector Rajwinder Kaur, who (Assistant Commissioner of Police (East), Amritsar City) further called the Drug Inspector at the spot and upon checking the sack in their presence, one cardboard box containing 342 strips of Tramadol Hydrochloride Tablets 100 mg, Cosidol-100 SR tablets of Bluepen Laboratories were recovered from the aforesaid sack and on counting the same, the total number of recovered white colored tablets were found to be 29920, which were taken into Police possession vide recovery memo dated 21.12.2022 after converting them into a parcel and sealed with a seal R.K. and G.S by her and the then Assistant Commissioner of Police (East), Amritsar City and separate sample seals were also prepared. The detailed facts leading to the recovery of aforesaid 29920 intoxicating tablets have been reproduced in true translation of the FIR No. 305 dated 21.12.2022 attached with the petition as Annexure P-I, which may kindly be read as part of this paragraph please as same are not repeated for the sake of brevity.

3. That during the investigation, Nishan Sharma suffered a disclosure statement dated 22.12.2022 before the investigating officer, disclosing therein that he had to hand over the recovered tablets to Rajiv Kumar alias Saurav alias Mannu as he was coming at the spot with the money. He further disclosed that he had purchased the aforesaid recovered intoxicant tablets from Nadeem, resident of Uttrakhand and he and Nadeem purchases the intoxicant tablets from the petitioner who runs a factory in the name of Rapid Remedies and apart from being a distributor, he sales the intoxicant tablets illegally.

4. That on the basis of the aforesaid disclosure statement of co-accused Nishan Sharma, the co-accused Rajiv Kumar was arrested on 22.12.2022 and Rs. 29,300/- was recovered from him and the petitioner and Nadeem were nominated in the present case as co-accused.

CRM-M-15120-2025

5. That on 23.12.2022, Inspector Amolakdeep Singh along with Drug Inspector Rohit Sharma, Amritsar-1, Drug Inspector Ramneek Singh, Amritsar-2 and Amarpal Singh, Drug Inspector, Amritsar-4 raided at the Rapid Remedies, Uttrakhand in the presence of Assistant Drug Controller (In-Charge), Food and Drug Control Administration, Uttrakhand and 85,000/- capsules of brand name CHELCIDOL-50, 1,44,000 Tablets of LOS DOL 100 SR and 1,76,000/ with the total of 4,05,000/- intoxicant tablets were recovered, which were converted into parcels and sealed with the seal 'AS' and 'RHS'."

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 para 8 of reply, the name of drug is Tramadol Hydrochloride.

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 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),

CRM-M-15120-2025

Cap Pyeevon Spas Plus 720 Cap Parvion Spas 800 Capsules, Spasonof NF 960 capsules, Capsules Spasmoproxyvon Plus 144, Proxywell Spas 2568 Capsules, Alprasafe 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. Per the custody certificate dated 03.05.2025 the petitioner's custody in this FIR is of 02 years, 04 months & 01 day.

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. 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

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

CRM-M-15120-2025

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. [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.**

CRM-M-15120-2025

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

19.05.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.