

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

CRM-M-17109-2025
Reserved on: 07.07.2025
Pronounced on: 18.07.2025

Digvijay Singh @ Divvijay Singh Basi ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sumit Dua, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
126	04.05.2024	Phillaur, Jalandhar	15(C) of NDPS Act (Section 25/27A/29 of NDPS Act added later on)

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 14 of the bail application and status report filed by the State, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	50	19.08.2024	336(3)/338/340(1)/61(2) of BNS, 2023 and Section 25 of Arms Act	SSOC, Amritsar
2	2	02.02.2024	8/15/29 of NDPS Act	ANTF, J&K

3. The facts and allegations are taken from the status report filed by the State. On 04.05.2024, based on chance recovery, the Police seized 600 kg of poppy husk from co-accused's possession. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973.

4. During the custodial interrogation of the accused – Ranjodh Singh @ Kala, he disclosed that on asking of petitioner and his father, he brought the contraband from Udaipur and he was paid Rs.40,000/- for this job; based on the disclosure statement, the

police arraigned the petitioner as an accused by incorporating S. 29 of the NDPS Act.

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 their family.

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

REASONING:

7. 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.

8. It would be appropriate to refer to the evidence collected against the petitioner, which is taken from the status report, which reads as follows:

“EVIDENCE AGAINST THE PETITIONER:

11. *That during interrogation, the petitioner suffered a disclosure statement wherein he disclosed that Ranjodh Singh @ Kala is the driver of their truck bearing registration no. JK-03-H-4470. The petitioner Digvijay Singh and his father Harvinder Singh Basi bring poppy husk from Udaipur, Rajasthan and sell the same in Punjab. On 04.05.2025, 600 kilograms of poppy husk which was recovered by police officials in the instant case was brought by Ranjodh Singh @ Kala on the asking of petitioner Digvijay Singh and Harvinder Singh Basi.*

ROLE OF THE PETITIONER:

12. *That the petitioner came to be nominated as an accused in the instant case vide DDR No. 44 dated 05.05.2024 on the basis of disclosure statement suffered by co-accused Ranjodh Singh @ Kala wherein he stated that he is working as a truck driver of Harvinder Singh Basi who is the owner of truck bearing registration no. JK-03-H-4470 for the last 2 years. Harvinder Singh Basi and his son Digvijay Singh (petitioner) are in the business of sale of poppy husk. On their asking, Ranjodh Singh had earlier also brought poppy husk from Udaipur, Rajasthan twice. The said persons used to pay Rs. 30,000/- to Ranjodh Singh for every ride. Lastly, Ranjodh Singh stated that Harvinder Singh Basi and his son Digvijay Singh (petitioner), who are lodged in Jammu jail, called him from international numbers on his mobile phone and asked him to get poppy husk from Udaipur, Rajasthan. Accordingly, he had brought 600 kilograms of poppy husk from Udaipur, Rajasthan on the asking of Harvinder Singh Basi and his son Digvijay Singh (petitioner) and Ranjodh Singh @ Kala was to be paid Rs.40,000/- for the said job.”*

9. Thus, the evidence collected so far consists of disclosure statements. Such statements can be proven subject to the mandatory restrictions imposed in S. 25 & 26 of the Indian Evidence Act, 1872/ S. 23 of BSA, 2023.

10. In Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1, the majority view of a

three-member bench holds as follows:

We answer the reference by stating:

(i) That the officers who are invested with powers under section 53 of the NDPS Act are “police officers” within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.

(ii) That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act.

11. The status report filed by the police reveals that the investigator arraigned the petitioner as an accused based on the disclosure statement of the main accused, from whose possession the investigator had recovered the contraband. No other evidence is collected at this stage to connect the petitioner with the main accused. Thus, there is no justification to deny bail. Consequently, the petitioner has satisfied the first rider of section 37 of the NDPS Act. Regarding the second rider of S. 37, this court will put very stringent conditions in this order to ensure that the petitioner does not repeat the offense.

12. For now, the petitioner has prima facie satisfied the first condition of section 37 of the NDPS Act to make a case for bail. Regarding the second rider of S. 37, this court will put very stringent conditions in this order to ensure that the petitioner does not repeat the offense.

13. As per paragraph 07 of the bail petition, the petitioner has been in custody since 05.09.2024 and his total custody in this FIR is more than 10 months. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

14. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

15. The evidence collected might be prima facie sufficient to launch prosecution or even to frame the charges; however, it is insufficient for bail.

16. Given the penal provisions invoked, the legal admissibility of evidence collected against the petition, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

17. Without commenting on the case's merits, in the facts and circumstances unique and peculiar to this case, and for the reasons mentioned above, the petitioner makes a

case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

18. 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.

19. 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)	

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

21. 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.

22. Given the background of allegations against the petitioner, it becomes paramount to protect the detection squad, 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.

23. 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."

24. 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."

25. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Trial Court, which shall be at liberty to cancel this bail.**

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

27. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

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

(ANOOP CHITKARA)
JUDGE

18.07.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.