

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18661-2025
Reserved on: 06.05.2025
Pronounced on: 19.05.2025

Jagdish Singh @ Jagga

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gurinder Singh Dhillon, Advocate,
for the petitioner.

Mr. Sukhwinder Singh Rai, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
31	25.05.2021	Rureke Kalan, District Barnala	21/22/25/29 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. As per paragraph 14 of the bail application and as per the custody certificate dated 05.05.2025, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	507	09.10.2021	52-A of Prison Act	City Barnala
2.	527	25.10.2021	353, 186, 332, 333, 506, 148, 149 IPC	City Barnala
3.	72	15.04.2022	52-A of Prison Act	Tripadi Patiala
4.	331	05.11.2022	323, 341, 148, 149 IPC	Tripadi, Patiala
5.	342	25.12.2024	52-A Prison Act	Tripuri

3. The facts and allegations are taken from the status report filed by the State. On 25.05.2021, based on secret information, the Police seized 50000 intoxicant tablets marka Celcidal 100 SR (Tramadol) from the petitioner's possession. Similarly, tablets were recovered from car of the co-accused. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973.

4. Counsel for the petitioner submits that he has no objection if this Court while granting bail imposes any stringent conditions including surrender of fire arms, if any. On instructions, counsel further submits that petitioner shall not repeat the offence and would not involve himself in the offence, where the sentence is more than 7 years and if he does

so, he has no objection if the State files an application for cancellation of bail. He contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

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

6. It would be appropriate to refer to the following portions of the status report, which reads as follows:

"C. THE EVIDENCE AGAINST THE PETITIONER.

The present FIR was registered against accused Jagdish Singh @ Jagga (petitioner) on the basis of secret information received by Inspector Baljit Singh Incharge C.I.A, Barnala. Further investigation was carried out by ASI Sharif Khan, who apprehended accused Jagdish Singh @ Jagga and in the presence of DSP and 50,000 intoxicant tablets marka Celcidal 100 SR (Tramadol) batch No. 21B-T 242 MFG May 2021, EXP APR 2023 were recovered from his possession. As per FSL report, the quantity of 50000 intoxicant tablets is 361.27X50,000 :- 1000-18063.5 grams, so, this recovery falls within the ambit of commercial quantity.

D. THE ROLE OF THE PETITIONER.

The present FIR was registered against accused Jagdish Singh @ Jagga (petitioner) and his co-accused Navjot Singh @Jot on the basis of secret information received by Inspector Baljit Singh Incharge C.I.A, Barnala. Further investigation was carried out by ASI Sharif Khan, who apprehended accused Navjot Singh @ Jot and Jagdish Singh @ Jagga and in the presence of DSP, (25,000+75000+50000) total 1,50,000 intoxicant tablets were recovered from their possession. On the basis of interrogation made by accused Navjot Singh @ Jot, accused Ravinder @ Sudhir Raj r/o loni was nominated as accused in this case and he was arrested on 27.05.2021 and from his possession 50,000 intoxicant tablets marka Celcidal 100 SR (Tramadol Hydrochloride 100 mg of two different batches were recovered. Thus, the huge recovery falls within the category of commercial quantity. The petitioner was found involved in the commission of drug trafficking and the allegations against the petitioner are grave and well founded. Hence, a specific role is attributed to the petitioner in the commission of present offence."

7. As per FSL report, the average weight of 50000 tablets are 18063.5 grams and it contained tramadol.

REASONING:

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. However, the petitioner is entitled to bail because Hon'ble Supreme Court had granted bail on prolonged custody in the following judicial precedents:

- 1) 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, 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.

10. 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.

11. In *Tajmul SK v. The State of West Bengal*, decided on 23 Jul 2024, CrA 3047-2024, Hon'ble Supreme Court holds,

[5]. We are inclined to set aside the impugned order only on the premise that right to speedy trial is a fundamental right. Despite the fact that the appellant has been under incarceration for more than one and a half years, the trial is yet to start, though, it is submitted by learned counsel appearing for the State that charges have been framed. Suffice it is to state that trial would take considerable length of time. There is no antecedent involving the appellant.

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

[6]. Accordingly, the impugned order is set aside and the appellant is granted bail, subject to the conditions that may be imposed by the Trial Court.

12. Given the above, the petitioner’s pretrial custody is more than some of the judicial precedents mentioned above; the petitioner is entitled to bail under Article 14 of the Constitution of India.

13. Given this, the criminal antecedents are also not legal grounds for denying the rigors of S. 37 of the NDPS Act at this stage.

14. As per the custody certificate dated 05.05.2025, the petitioner's custody in this FIR is of 03 years, 11 months and 04 days. Given the drugs were medicines that attracted violation of S. 22 of NDPS Act, 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.

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

CONDITIONS:

16. 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.

17. 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)	

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

19. 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.

20. 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.

21. 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."

22. 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."

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

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

25. 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.

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

(ANOOP CHITKARA)
JUDGE

19.05.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.