



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

CRM-M-24211-2021

Date of Decision: 18.08.2025

Bhagirath

...Petitioner

Vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Arpandeeep Narula, Advocate with
Mr. Vrishketu, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Sr. Deputy Advocate General,
Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 439 of Cr. P.C with a prayer to grant regular bail to him in case FIR No.77, dated 17.04.2021, under Section 17 of the NDPS Act, registered at Police Station Nathu Sarai Chopta, District Sirsa (Annexure P-1).
2. While granting the concession of interim bail on 06.08.2021, the following order was passed:-

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.77 dated 17.04.2021 registered under Section 17 of the NDPS Act at Police station Nathu Sarai Chopta, District Sirsa.

As per prosecution case, 1 kg 700 grams of opium husk was allegedly recovered from the petitioner when he was coming on a motorcycle with plastic polythene carrying the afore-said contraband.

Learned counsel for the petitioner submits that the alleged

recovery is non-commercial in nature being less than 2.5 kgs. Petitioner is on bail in two cases under IPC, one case under Excise Act and one case under NDPS Act, the details of which have been given in para no.9 of the petitioner. FSL report has not been received so far.

In view of CRR No.4659 of 2015 titled Ajit Singh @ Jeeta and another Vs. State of Punjab decided on 30.11.2018, filing of challan without FSL report is held to be incomplete challan and the accused is entitled for protection under Section 167(2) Cr.P.C. Owing to some conflict, the matter has been referred to Division Bench in CRR No.1125 of 2020 titled Julfkar Vs. State of Haryana. While making reference, the Court has also granted bail to the accused on furnishing adequate bail bonds and surety bonds to the satisfaction of the concerned Court.

The factual position of the case is not in dispute.

Let further proceedings of the present revision petition be deferred till decision of the reference in Julfkar's case (supra). In the meanwhile, petitioner shall remain on interim bail irrespective of filing of FSL report by the prosecution in the trial Court. Liberty is granted to the parties to move an appropriate application for taking up the case after decision of the aforesaid reference in Julfkar's case (supra)".

3. During the course of hearing today, it was brought to the notice that a similar issue is pending before the Hon'ble Supreme Court in a case titled as **"Mohd. Arbaz and others Vs. State of NCT of Delhi, SLP (Criminal), No.8164 of 2021"**. Learned counsel has informed the Court that the said matter has not been decided by the Hon'ble Supreme Court till date. He further contends that in compliance of the interim order dated 06.08.2021 passed by this Court, the petitioner is regularly appearing before the Trial Court.

4. On the other hand, learned State counsel has vehemently opposed

the submissions made by learned counsel for the petitioner on the ground that the petitioner is a habitual offender and is not entitled to the concession of bail by this Court.

5. I have heard the learned counsel for the parties and perused the record carefully.

6. In the present case, the petitioner was granted the concession of interim bail on 06.08.2021 and is regularly appearing before the Trial Court since the said date. Even, he is not misused the concession of bail in any manner. Consequently, the interim order dated 06.08.2021 is made absolute. It is made clear that the petitioner shall continue to appear before the Trial Court on each and every date of hearing and shall not absent himself from the Trial Court proceedings, without prior permission of the Trial court.

7. During the course of hearing today, learned State counsel has placed on record the photocopies of various zimni orders passed by the Trial Court. From a perusal of the zimni orders, it is apparent that the challan in the present case was filed before the Court on 10.06.2021 and charge was ordered to be framed against the accused on 08.03.2022. However, inspite of lapse of more than 03 years and 05 months, no prosecution witness has been examined so far.

8. Rather, from the perusal of various zimni orders passed by the Trial Court, it is apparent that various Presiding Officers of the Court have passed the orders in a very casual and cavalier manner. It can never be expected that the Judicial Officers, who are presiding over a Court of cases registered under the provisions of NDPS Act shall perform their duties in such a casual manner.

9. The Sessions Judge, Sirsa is directed to convene a meeting of all

Judicial Officers in District Sirsa and to direct them to take the Court proceedings seriously. It is always expected that the Judicial Officers will adopt a sincere approach in dealing with sessions trial. Even no leniency should be shown towards the accused, who are facing charges of smuggling of drugs.

10. A compliance report shall be submitted by the Sessions Judge, Sirsa within a period of one month from today.

11. A copy of this order be placed before the Hon'ble Administrative Judge, District Sirsa for information and compliance.

18.08.2025
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No