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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19542-2025
Reserved on : 07.07.2025
Pronounced on: 28.07.2025

RAM LAL ALIAS LUCKY

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Choudhary, Advocate for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
574	04.08.2023	Urban Estate, Hisar, District Hisar	22(c)/27A/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. Per paragraph 3 of the bail application, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date/Year	Sections	Police Station
1.	753	25.12.2021	25-A of Arms Act	Sadar Bhiwani
2.	455	25.07.2016	147/149/323/506/452 of IPC	Sadar Bhiwani
3. (acquitted)	395	05.07.2017	354-D/506/509 IPC	Sadar Bhiwani

3. The facts and allegations are taken from the FIR (Annexure P-1). On 03.08.2023, the investigator received a secret information that petitioner and one Sarvesh @ Dhillu are selling prohibited drugs under NPDS Act and was informed about their location and informed that if they are nabbed immediately, massive quantity of drugs can be seized. After that the investigator allegedly complied with the mandatory provisions of Section 42 of NDPS Act and proceed towards the spot where he noticed two boys sitting on a bike and the pillion rider (petitioner herein) was carrying a bag pack on his back and when they noticed the police party, the co-accused started bike, but in between the police party was able to apprehend them. The driver of the bike told his name as Sarvesh @ Dhillu, co-accused and the pillion rider told his name was Ramlal alias Lucky i.e. present petitioner. Subsequently, the said persons were given option that whether they would like to conduct

search in presence of gazetted officer, to which they stated positive and consequently, a gazetted officer was called, in whose presence search of the bag was conducted which lead to recovery of forty bottles (100 ml each) total 4000 ml Tossex New TRIPROLIDINE HYDROCHLORIDE CODINE, PHOSPHATE COUGH SYRUP, 30 bottles (100 ml each) containing total 3000 ml CODISTAR-T COUGH SYRUP, 24 strips (8 capsules each) of SPASMO PROXYVON PLUS, DICYCLOMINE HYDROCHLORIDE, TRAMADOL HYDROCHLORIDE AND ACETAMINOPHEN capsules and 55 strips, 15 tablets in each, total 825 tablets ALPRAX-0.5 ALPRAZOLAM TABLETS. Thus, the medicines which were prohibited and recovered individually, falls under commercial category and Section 37 of NDPS Act would come into force. On testing, the laboratory found presence of CODEINE PHOSPHATE, TRAMADOL AND ALPRAZOLAM, in the respective medicines. Needless to say that prima facie quantities are commercial.

4. Counsel for the petitioner submits that the co-accused, namely, Sarvesh @ Dhillu was granted regular bail vide order dated 11.03.2025 passed in CRM-M-40341-2024 by this Court. He further submits that the petitioner is not involved in any other case under NDPS Act.

5. The petitioner's counsel submits that the petitioner would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, or commits any offence under the NDPS Act, where the quantity involved is more than half of the intermediate, or commercial quantity, or violates S. 19, or 24, or 27-A of the NDPS Act, the State may file an application to revoke this bail before the concerned Special Judge or Sessions Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and may do so at their discretion, to which the petitioner shall have no objection.

6. The State's counsel opposes bail on instructions.

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 set forth by the Legislature under Section 37 of the NDPS Act.

8. 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, the Hon'ble Supreme Court has granted bail on prolonged custody in the following judicial precedent:

9. 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. Per the custody certificate dated 04.07.2025, the petitioner's custody in this FIR is of 01 year, 06 months and 26 days.

11. 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.

12. Following the judicial precedent mentioned above, without commenting on the case's merits, and considering the petitioner’s pre-trial custody, the weight of the drugs, coupled with the other factors peculiar to this case, further pre-trial incarceration is not justified at this stage.

CONDITIONS:

13. 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 or 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.

14. 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)

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

4.	E-Mail id (If available)
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15. This order is subject to the petitioner’s complying with the following terms.
16. 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.
17. Given the background of allegations against the petitioner, it becomes paramount to protect the members of society, detention 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.
18. 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 the Hon’ble Supreme Court held 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.”
19. In Md. Tajiur Rahaman v. The State of West Bengal, decided on 08-Nov-2024, SLP (Crl) 12225-2024, the 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.”

20. The significant consideration for granting bail is that the Court aims to give the petitioner another chance to course-correct, reform, and reintegrate into the community as an ideal citizen. To ensure that the petitioner also abides by the assurance made on the petitioner's behalf by not repeating the offence or indulging in any crime, it shall be desirable to impose the following additional condition.

21. This bail is conditional, with the foundational condition being that if the petitioner repeats the offense 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, or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State shall file an application to revoke this bail before the Special Judge/ Sessions Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and as per their discretion, they may cancel this bail.

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

23. 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.

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

25.07.2025
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(ANOOP CHITKARA)
JUDGE

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