

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19864-2025
Reserved on: 01.09.2025
Pronounced on: 19.09.2025

HC Rattan Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Karandeep Singh Sidhu, Advocate,
for the petitioner.

Ms. Pooja Nayar Sharma, DAG, Punjab

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
186	22.09.2023	Guruharsahai, Distt. Ferozepur	21, 22 of NDPS Act (Section 29 of NDPS Act added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court third time under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. As per paragraph 11 of the bail application, the petitioner has no criminal antecedents.
3. The facts and allegations are taken from paras 3 to 6 of the status report filed by the State, which reads as follows:

“3. That it is most respectfully initially FIR No.186 dated 22.09.2023 u/s 21/22/61/85 NDPS Act was registered in Police Station Guruharsahai, District Ferozepur against 1)Rani wife of Ashwani Kumar, 2)Sagar son of Ashwani Kumar and 3)Hawaldar Rattan Singh (present petitioner) on the basis of secret information to the effect that they are indulged in sale of Heroin and intoxicating tablets in the area of Guruharsahai and surrounding areas. Thereafter, a raid was conducted and accused Rani was apprehended by the police party on 22.09.2023 and recovery of 270 gram Heroin was made from conscious possession of Rani accused.

4. That on 25.09.2023, during police remand and interrogation, accused Rani wife of Ashwani Kumar has suffered disclosure statement that she used to purchase the heroin from Rattan Singh Gurdaspuriya, who is posted in Punjab Police in District Ferozepur. She further confessed that 270 gram heroin, which was recovered from her, purchased the same from Rattan Singh petitioner at the rate of Rs.1200/- per gram. She further confessed that her son Sagar used to sell the heroin, which was purchased from Rattan Singh in parts at the rate of Rs.2000/2200/- per gram. Thus offence u/s 29 NDPS Act was enhanced in the FIR. However no recovery was effected from

the present petitioner.

5. That during investigation, the mobile call details of Rani, Sagar and present petitioner were also obtained and as per the said details obtained through CDR, Mobile Number of Rattan Singh bearing no.96644-xxxx, 75085-xxxx is having conversation with the mobile numbers of Rani wife of Ashwani and Sagar son of Ashwani bearing mobile no's.75278-xxxx, 80543-xxxx, 70090-xxx and 77102-xxxx for the last so many months. Furthermore on the next date i.e dated 23-09-2023 of recovery of contraband, the present petitioner found having conversation with Sagar from his mobile no. 94644-xxxx to 75278-xxxx.

6. That further the enquiry qua the character of the present petitioner (Head Constable Rattan Singh) and his relation with co-accused Rani was also conducted by the police and as per the report, the present petitioner when posted as driver on the Government Vehicle in Police Station Guruharsahai, he was in relation with said Rani wife of Ashwani Kumar. The said Rani was also accused in FIR no.241 dated 27.12.2018 u/s 21/61/85 NDPS ACT PS: Guruharsahai as recovery of 50 gram heroin from him. During the course of enquiry, it was also found that the present petitioner was providing secret information of the police department to the said Rani and as such vide DDR No.11 dated 04.06.2019, he was transferred to Police Line, Ferozepur and the departmental enquiry has also been initiated against him, after the completion of departmental enquiry, the allegations against said petitioner were duly proved and his one year service and one year increment have been forfeited vide order no.917-24/Steno dated 06.04.2021, order book no.512 dated 07.04.2021.”

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 his family.

7. 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.

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

REASONING:

9. As per paragraph 3 of the status report, the name of the contraband is heroin and its weight is 270 grams.

10. Dealing in 270 grams of heroin in contravention of the NDPS Act, 1985, constitutes an offense under the following provisions and notifications:

Substance Name	Heroin/ Chitta/ Smack/ Brown Sugar/ Diacetylmorphine
Quantity detained	270 Gram
Punishable U/s	S.21(c) of NDPS Act, 1985
Quantity type	Commercial
Drug Quantity in % to upper limit of Intermediate	108.00%

Drug's Small & Commercial Qty. suggested by Committee report	
Notification No. & date	Expert Committee Report dated 24.03.1995 & 23.08.2001 (Small and Commercial)

<i>Specified as small & Commercial in S.2(viia) & 2(xxiii) NDPS Act, 1985</i>		
Notification No. & dated	S.O.1055(E)	10/19/2001
Sr. No.	56	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	Heroin	
Other non-proprietary name	*****	
Chemical Name	Diacetylmorphine	
Small Quantity	< 5 Gram	
Commercial Quantity	> 250 Gram	

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Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) & 2(xxiii) NDPS Act, 1985		
Notification No. & dated	S.(xvi)(d) NDPS Act, 1985 (61 of 1985), S.O. 821 (E)	11/14/1985

Sr. No.	2(xvi)(d)
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	*****

Other non-proprietary name	*****
Chemical Name	2(xvi)(d) diacetylmorphine, that is, the alkaloid also known as dia-morphine or heroin and its salts; Explanation.-- For the purposes of clauses (v) (vi), (xv) and (xvi) the percentages in the case of liquid preparations shall be calculated on the basis that a preparation containing one per cent. of a substance means a preparation in which one gram of substance, if solid, or one millilitre of substance, if liquid, is contained in every one hundred millilitre of the preparation and so on in proportion for any greater or less percentage: Provided that the Central Government may, having regard to the developments in the field of methods of calculating percentages in liquid preparations prescribed, by rules, any other basis which it may deem appropriate for such calculation.

11. 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.
12. As per the custody certificate dated 30.08.2025, the petitioner's custody in this FIR is of 01 year, 09 months and 16 days.
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. The petitioner is entitled to bail because, in somewhat similar cases where the quantity involved was either greater than or close to the amount seized in the current FIR, the Hon'ble Supreme Court has granted bail after prolonged custody, as demonstrated by the following judicial precedent.
15. In Sabat Mehtab Khan v. The State of Maharashtra, decided on 03 Sep 2024, SLP (Crl) 8557-2024, Hon'ble Supreme Court holds,

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

The petitioner is an accused for the offences punishable under Sections 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act and allegation is that 275 gms. and 50.01 gms of heroine has been recovered from him. His regular bail application was dismissed by the High Court. He has already undergone about 1 year six months in jail.

Heard learned senior counsel/counsel for the parties.

Considering the quantity of the contraband articles and the period of his incarceration, we are of the opinion that a case of bail is made out for the petitioner.

16. In *Ramlal v. The State of Rajasthan*, decided on 17 Sep 2024, SLP (Crl) 9510-2024, wherein Hon'ble Supreme Court granted bail to a first offender after one year and six months of custody who possessed 450 grams of smack (Heroin), and the holds as follows:

The petitioner and the other accused persons are accused for the offences punishable under Sections 8/21 & 8/29 of the Narcotic Drugs and Psychotropic Substances Act and allegation is that 450 gram of smack has been recovered from them. The bail application of the petitioner was dismissed by the High Court. Hence, he approached this Court. He has already undergone about 1 year and 6 months in jail.

Heard learned counsel for the petitioner. As per office report dated 13.09.2024, the service is deemed complete on the sole respondent-State but no one has appeared for the State.

Considering the period of incarceration of the petitioner and the fact that the petitioner has no criminal antecedents, we are of the opinion that a case of bail is made out for the petitioner.

17. 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, absence of criminal antecedents relating to drugs, coupled with the other factors peculiar to this case, further pre-trial incarceration is not justified at this stage.

CONDITIONS:

18. Given the 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, with or without sureties, with a maximum bond amount not to exceed INR 25,000.

19. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, the surety is capable of producing the accused. However, instead of surety, the petitioner may provide a fixed deposit of INR 25,000/-, with a clause that the interest shall not be accumulated in FD, either drawn from a State-owned bank or any bank listed on the National Stock Exchange and/or Bombay Stock Exchange, in favour of the "Chief Judicial Magistrate" of the concerned Sessions Division; or a fixed deposit

made in the name of the petitioner, with similar terms and with endorsement from the banker stating that the FD shall not be encumbered or redeemed without the permission of the concerned trial Court, or until the surety bond has been discharged.

20. 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)

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

22. 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.

23. 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 society; it would also restrain the accused from influencing the witnesses and repeating the offense.

24. 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.”

25. 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.”

26. 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.

27. 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 concerned 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.

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

29. In Amit Rana v. State of Haryana, CRM-18469-2025 [in CRA-D-123-2020, decided on 05.08.2025], a Division Bench of Punjab and Haryana High Court in paragraph 13, holds that “To ensure that every person in judicial custody who has been granted bail or whose sentence has been suspended gets back their liberty without any delay, it is appropriate that whenever the bail order or the orders of suspension of sentence are not immediately sent by the Registry, computer systems, or Public Prosecutor, then in such a situation, to facilitate the immediate restoration of the liberty granted by any Court, the downloaded copies of all such orders, subject to verification, must be accepted by the Court before whom the bail bonds are furnished.”

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

19.09.2025

Jyoti-II

Whether speaking/reasoned:

Whether reportable:

(ANOOP CHITKARA)

JUDGE

Yes

No.