

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

CRM-M-21157-2025
Reserved on: 08.07.2025
Pronounced on: 31.07.2025

Gurlal Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. N.S. Gill, Advocate
for the petitioner.

Ms. Navreet K. Barnala, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
29	24.03.2025	Dhanaula, District Barnala	15, 25 of NDPS Act (Section 29 of NDPS Act added later on)

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. Per paragraph 21 of the bail petition, petitioner has no criminal antecedents.
3. The facts and allegations are taken from the status report filed by the State. On 24.03.2025, when the police party was patrolling, then they spotted a vehicle with its boot open and two persons were seen frolicking in the plastic bags. On seeing the police party, they became perplexed, flustered and tried to run away. However, they were apprehended. After allegedly completing all the required procedures of NDPS Act and BNSS, the police conducted search which led to recovery of 150 kilograms of poppy straw. Subsequently, police arrested both the persons who revealed their names as Sarban Singh and Sukha.
4. During custodial interrogation, Sarban Singh and Sukha disclosed to the police that they had bought this poppy straw from Lala and was to be supplied to Gurjant Singh. As such, both Lala and Gurjant Singh were arraigned as accused. Later on, during the investigation, Lala was verified as the petitioner Gurlal Singh and another accused, Gurjant Singh, was arrested.

5. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that 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.

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

“As per verification report made from Registering Authority Karnal, the car bearing No. HR 05AS 0110 was found in the Saurabh Bansal son of Satish Kumar Bansal ro House No. 13/122 Hospital Road N. Shivam Kewal Vision Ward No. 13, Taraor, Karnal. Saurabh Bansal sold the said car to Sarban Singh (accused) as per affidavit dated 02.12.2024.

A. THE NAME AND TOTAL WEIGHT OF THE DRUG.

150 Kgs Poppy husk (recovered from co-accused Sarban Singha and Sukha) and same was brought by them from the present petitioner and it was to be supplied to Gurjant Singh (co-accused)

B. THE EVIDENCE BASED ON WHICH THE PETITIONER WAS ARRAIGNED AS AN ACCUSED.

The present FIR was registered against accused Sarban Singha and Sukha for the recovery of 150 kgs poppy husk from their possession, which was transporting in car HR 05AS 0110 make Creta. Both the accused were arrested at the spot on 24.03.2025 and during police remand on 27.03.2025, both the accused disclosed that they brought this poppy husk from Lala Singh (later on verified as Gurlal Singh, present petitioner) and the same was to be supplied to Gurjant Singh (co-accused). The petitioner Gurlal Singh was found to be involved in the drug trafficking, so the petitioner and his co-accused Gurjant Singh were nominated as accused u/s 29 NDPS Act on 27.03.2025. That is why the petitioner Gurlal Singh was rightly arraigned as an accused in this case.

C. THE EVIDENCE AGAINST THE PETITIONER

As per the detailed facts submitted above, 150 kgs poppy husk was recovered from the possession of accused Sarban Singh and Sukha on 24.03.2025 and during interrogation both the accused disclosed that they brought this poppy husk from Lala Singh (later on verified as Gurlal Singh. present petitioner) and the same was to be supplied to Gurjant Singh (co-accused). Apparently, it was clearly proved and evident that 150 kgs poppy husk, which was recovered from the above said two accused, was brought by them from the present petitioner Gurlal Singh.

D. IN CASE OF DISMISSAL OF THIS PETITION, WOULD THE POLICE ARREST THE PETITIONER IN THIS FIR, AND DO THEY NEED THE ACCUSED'S POLICE CUSTODY?

As per the detailed pleading and submissions made herein above, 150 kgs poppy husk which was recovered from accused Sarban Singh and Sukha that was supplied to them by the present petitioner and same was to be supplied by them to co-accused Gurjant Singh. So, the petitioner is not entitled for the grant of anticipatory bail, rather his

custodial interrogation is required, so as to find out the source of supply of poppy husk to the petitioner, complete the investigation and to present the challan in the Court. So, if this Hon'ble Court dismissed the present petition, then the police will arrest the accused/petitioner.”

8. The recovered contraband i.e. 150 kilograms of poppy husk falls in commercial quantity and rather is three times the commercial quantity.

9. It shall be appropriate to refer to evidence collected so far, which is mentioned in the following paragraph of status report dated 30.06.2025, which reads as follows:

“7. That the CDR and CAF of Mobile No. 97794-39131 and 70095-65105 were obtained and perusal of which revealed that the mobile No. 97794-39131 was found running in the name of Soma Singh (father of petitioner Gurlal Singh) and mobile No. 70095-65105 was found running in the name of Sukha (co-accused). Soma father of petitioner has died and after his death, the said mobile phone was being used by Gurlal Singh (present petitioner). On perusal of CDR of Mobile phone No. 70095-65105 of main accused Sukha and mobile phone number 97794-39131 of accused Gurlal Singh (present petitioner), reveals that on 23.03.2025 i.e. one day prior to the registration of present FIR, 13 calls are found to be made between both of them in the area of Haryana and UP, which shows that both of them were in contact with each other. This also shows that they were not strangers to each other.”

10. There is prima facie evidence of the petitioner's involvement with the main accused through digital evidence which has come in the shape of all details records as mentioned above. This circumstance alone would dis-entitle the petitioner for anticipatory bail. Although so far the evidence is of disclosure statement, but the preliminary investigation points out that petitioner was the seller of the poppy straw as such the drug money would be with petitioner and same has to be recovered. Till now, despite this Court staying the petitioner's arrest on 06.05.2025, the drug money could not be recovered. Consequently considering the lack of recovery of drug money and prima facie investigation pointing out towards petitioner's involvement, petitioner is not entitled to bail.

11. The quantity allegedly involved in this case is commercial. Given this, the rigors of S. 37 of the NDPS Act and the petitioner must satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act.

12. Given the above, the petitioner has, prima facie, failed to satisfy the conditions of section 37 of the NDPS Act to make a case for bail.

13. In *Abida v. State of Haryana*, 2022:PHHC:058722, [Para 10], CRM-M-5077-2022, decided on 13-05-2022, this court observed as follows:

[10]. Thus, both the twin conditions need to be satisfied before a person accused of possessing a commercial quantity of drugs or psychotropic substance is to be released on bail. The first condition is to provide an opportunity to the Public Prosecutor, enabling to take a stand on the bail application. The second stipulation is that the Court must be satisfied that reasonable grounds exist for believing that the accused is not guilty of such offence, and is not likely to commit any offence while on bail. If either of these two conditions is not met, the ban on granting bail operates. The expression “reasonable grounds” means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. Even on fulfilling one of the conditions, the reasonable grounds for believing that the accused is not guilty of such an offence, the Court still cannot give a finding on assurance that the accused is not likely to commit any such crime again. Thus, the grant of bail or denial of bail for possessing commercial quantity would vary from case to case, depending upon its facts.

[30]. From the summary of the law relating to rigors of S.37 of NDPS Act, while granting bail involving commercial quantities, the following fundamental principles emerge:

- (a). In case of inconsistency, S. 37 of the NDPS Act prevails over S. 439 CrPC. [Narcotics Control Bureau v Kishan Lal, 1991 (1) SCC 705, Para 6].
- (b). The limitations on granting of bail come in only when the question of granting bail arises on merits. [Customs, New Delhi v. AhmadalievaNodira, (2004) 3 SCC 549, Para 7].
- (c). The provisions of Section 37 of the NDPS Act provide the legal norms which have to be applied in determining whether a case for grant of bail has been made out. [UOI v. Prateek Shukla, **2021:INSC:165 [Para 11]**, (2021) 5 SCC 430, Para 12].
- (d). In case the Court proposes to grant bail, two conditions are to be mandatorily satisfied in addition to the standard requirements under the provisions of the CrPC or any other enactment. [Union of India v. Niyazuddin SK &Anr, **2017:INSC:686 [Para 7]**, (2018) 13 SCC 738, Para 7].
- (e). Apart from granting opportunity to the Public Prosecutor, the other twin conditions which really have relevance are the Court's satisfaction that there are reasonable grounds for believing that the accused is not guilty of the alleged offence. [N.R. Mon v. Md. Nasimuddin, (2008) 6 SCC 721, Para 9].
- (f). The satisfaction contemplated regarding the accused being not guilty has to be more than prima facie grounds, considering substantial probable causes for believing and justifying that the accused is not guilty of the alleged offence. [Customs, New Delhi v. Ahmadalieva Nodira, (2004) 3 SCC 549, Para 7].
- (g). The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. [State of Kerala v. Rajesh, **2020:INSC:88 [Para 21]**, AIR 2020 SC 721, Para 21].

(h). Twin conditions of S. 37 are cumulative and not alternative. [Customs, New Delhi v. Ahmadaliev Nodira, (2004) 3 SCC 549, Para 7].

(i). At the bail stage, it is neither necessary nor desirable to weigh the evidence meticulously to arrive at a positive finding as to whether or not the accused has committed an offence under the NDPS Act and further that he is not likely to commit an offence under the said Act while on bail. [Union of India v. Rattan Mallik @ Habul, (2009) 2 SCC 624, Para 14].

(j). If the statements of the prosecution witnesses are believed, then they would not result in a conviction. [Babua v. State of Orissa, (2001) 2 SCC 566, Para 3].

(k). Merely recording the submissions of the parties does not amount to an indication of a judicial mind or a judicious application of mind. [UOI v. Prateek Shukla, **2021:INSC:165 [Para 11]**, (2021) 5 SCC 430, Para 12].

(l). Section 37 departs from the long-established principle of presumption of innocence in favour of an accused person until proved otherwise. [Union of India v. Sanjeev v. Deshpande, (2014) 13 SCC 1, Para 5].

(m). While considering the application for bail concerning Section 37, the Court is not called upon to record a finding of not guilty. [Union of India v. Shiv Shanker Kesari, (2007) 7 SCC 798, Para 11].

(n). The confessional statement recorded under Section 67 of the NDPS Act is inadmissible in the trial of an offence under the NDPS Act. [Tofan Singh v. State of Tamil Nadu, **2020:INSC:620**, (2021) 4 SCC 1]

(o). In the absence of clarity on the quantitative analysis of the samples from the laboratory, the prosecution cannot be heard to state at this preliminary stage that the accused possessed a commercial quantity of psychotropic substances as contemplated under the NDPS Act. [Bharat Chaudhary v. Union of India **2021:INSC:877 [Para 11]**, 2021 SCC OnLine SC 1235, Para 10].

(p). When there is evidence of conscious possession of commercial quantity of psychotropic substances, such accused is not entitled to bail given Section 37 of the Act as contemplated under the NDPS Act. [State by (NCB) Bengaluru v. Pallulabid Ahmad Arimutta, **2022:INSC:26 [Para 11]**, 2022 SCC OnLine SC 47, Para 12].

(p). Bail must be subject to stringent conditions. [Sujit Tiwari v. State of Gujarat, **2020:INSC:101 [Para 12]**, 2020 SCC Online SC 84, Para 12].

[31]. Satisfying the fetters of S. 37 of the NDPS Act is candling the infertile eggs. The stringent conditions of section 37 placed in the statute by the legislature do not create a bar for bail for specified categories, including the commercial quantity; however, it creates hurdles by placing a reverse burden on the accused, and once crossed, the rigors no more subsist, and the factors for bail become similar to the bail petitions under general penal statutes like IPC.

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14. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. The impact of crime would also not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

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

16. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

31.07.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.