



CRM-M-22148-2025

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

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CRM-M-22148-2025
Decided on :10.12.2025

Amit Kumar

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. B.S. Aulakh, Advocate for the petitioner.

Mr. Jasdeep Singh, Addl. A.G., Punjab

SANJAY VASHISTH, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, seeking regular bail in case FIR No. 108 dated 08.09.2024, under Sections 22(C), 61, 85 NDPS Act, 1985 and Section 223 of BNS, registered at Police Station Kotbhai, District Sri Muktsar Sahib.

2. As per the case of prosecution, there was a recovery of 40 tablets of **Etizolam** along with 3,000 capsules of **Pregabalin**.

3. Learned counsel for the petitioner argues that petitioner is in custody for the past one year, two months, and twenty-seven days in connection with the alleged offence of keeping 40 tablets of Etizolam in his possession.



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3. At the same time, counsel clarifies that, as per *Sandeep Kumar and others vs. State of Punjab* in CRM-M-22598-2021, **Pregabalin** does not fall within the ambit of the NDPS Act. However, he does not deny that the allegedly recovered quantity of **Etizolam** tablets falls under the commercial quantity.

4. Learned counsel further contends that petitioner has never been involved in any other similar activity in his past record; this is the first case in which he is implicated. Counsel also submits that, out of a total of 20 prosecution witnesses, none has been examined till date. Therefore, considering the petitioner as a first-time offender under the provisions of the NDPS Act and in view of the slow pace of trial, counsel prays that prayer for bail may be considered sympathetically.

5. On the other hand, learned State counsel submits that a huge quantity of unauthorized drugs has been recovered. It is further argued that even if 3,000 capsules of **Pregabalin** do not fall within the ambit of the NDPS Act, the petitioner remains responsible for keeping a large quantity of drugs in unauthorized possession.

Learned State counsel further contends that 2.5 grams of **Etizolam** salt falls under the category of commercial quantity; therefore, the petitioner, having kept 40 tablets of Etizolam in his possession, does not deserve the concession of bail.

6. I have heard the learned counsel for the parties and have carefully perused the paper book along with the documents appended thereto.



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6. Undoubtedly, it is a debatable question whether 3,000 capsules of **Pregabalin** fall within the ambit of the NDPS Act or not. However, regarding the alleged possession of 40 tablets of **Etizolam**, the contention of the petitioner that he has been falsely implicated in the case is yet to be examined by the trial Court.

Concerning the salt of Etizolam, this Court has also dealt with the matter in **CRM-M-12950-2025** (order dated 16.07.2025), wherein it was noticed as under:

“3. Learned counsel for the petitioner contends that although the quantity of Etizolam recovered from the petitioner falls under the category of commercial quantity, the recovered quantity of Heroin falls under the category of small quantity.

Learned counsel for the petitioner has produced a copy of the order dated 09.07.2025 passed in CRM-M-24404-2025 and submits that the co-ordinate Bench of this Court concluded that the salts Alprazolam and Etizolam are prescribed for similar ailments and differ only slightly in potency. It was further observed that the commercial quantity notified by the Central Government for Etizolam (2.5 grams) is, in fact, less than the small quantity prescribed for Alprazolam (5 grams), and there is no data suggesting that Etizolam is 40 times more potent than Alprazolam. Copy of order dated 09.07.2025 is taken on record. The relevant excerpt of the said order is reproduced herebelow:

“4. He further contends that the Central Government vide notification bearing No. S.O.1276(E) dated 23.03.2021, Etizolam was brought under the ambit of the NDPS Act. It was specified that 0.05g



would constitute to be small quantity while 2.5g would be the commercial quantity in this regard. However, a perusal of the Pre-Review Report presented on Etizolam by the World Health Organisation’s Expert Committee on Drug Dependence, at its 37th Meeting (16-20 November, 2015), would indicate that Etizolam is comparable to Alprazolam in its nature and effects, both being derivatives of benzodiazepine. Based on its chemical structure, it is also unlikely to convert Etizolam into a different controlled substance. In fact, the report concludes that nature of possible abuse of Etizolam does not warrant international control. Moreover, there is also a scarcity of empirical data concluding overdose of Etizolam can result in death. While two doses of 0.5mg Etizolam per day would have the same impact as two doses of 0.5mg Alprazolam, the huge difference in the notified commercial quantities for the same is rather curious

Controlled Substance	Small Quantity	Commercial Quantity
Alprazolam	5g	100g
Etizolam	0.05g	2.5g

5. In spite of the fact that both the notified substances are prescribed to cure the same ailments and have a similar effect, with minor difference in potency, the commercial quantity notified by the Central Government for Etizolam (2.5g) is even lesser than small quantity prescribed for Alprazolam (5 g). There is no data to even remotely suggest that the potency of Etizolam is 40 times that of Alprazolam

6. With that in view, a study of Section 22 of the NDPS Act is called for-

22. Punishment for contravention in relation to psychotropic substances.—

Whoever, in contravention of any provision of this Act or any rule or order made or condition



of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses any psychotropic substance shall be punishable,--

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to 2[one year], or with fine which may extend to ten thousand rupees, or with both;

(b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine .

(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

The mandatory minimum punishment for cases involving commercial quantities is 10 years, which may be extended to 20 years. In view of the nature of Etizolam, such stringent punishment does not satisfy the test of proportionality. The impact of Etizolam and the meagre amount of commercial quantity i.e. 2.5g notified by the Central Government does not align with the gravity of the offence alleged.”

Counsel submits that in the cited case, there was a recovery of 2.76 grams of Etizolam, and considering the



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custody period of 9 months already undergone, the petitioner in that case was granted the concession of bail. Relying on the strength of the aforesaid bail order, Mr. P.S. Sekhon, learned counsel for the petitioner, prays for grant of bail, submitting that the petitioner has been in custody for nearly two years (i.e., one year, eleven months, and sixteen days). ”

In view of these observations, and considering the substantial period of incarceration already undergone by the petitioner as well as the slow pace of the trial, this Court is of the considered opinion that petitioner deserves an opportunity for rehabilitation and reintegration into society. Without expressing any opinion on the merits of the case, the petitioner’s right to personal liberty cannot be curtailed indefinitely.

Consequently, present petition is allowed. Petitioner is ordered to be released on bail, subject to furnishing bail/surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate concerned, provided he is not required in connection with any other case.

7. Any of the discussion done and recorded hereabove, shall not be construed as an expression of opinion on the facts of the case. Therefore, trial Court is expected to decide the case by taking an independent view, on the basis of evidence available on record, as expeditiously as possible in accordance with law.

8. It is further made clear that if, in future, the petitioner is found to be directly involved in similar activities, the prosecution would be at liberty to seek cancellation of bail.



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9. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

10.12.2025

Rashmi

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*