



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

CRM-M-24404-2025 (O&M)

Reserved on: 04.07.2025

Pronounced on: 09.07.2025

Pawan Kumar

....Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Gaurav Kalsi, Advocate  
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

**HARPREET SINGH BRAR, J. (ORAL)**

1. The present petition is preferred under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter 'BNSS') seeking regular bail in the case stemming from FIR No.82 dated 08.10.2024 registered under Sections 22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'NDPS Act') at Police Station Aur, District Shaheed Bhagat Singh Nagar.

2. Briefly, the facts, as alleged, are that on 08.10.2024, the police party was patrolling the area of Sati Mata Mandir, Ladhar when they saw the petitioner and one other person namely Hardeep Singh @Nikka coming on foot. Seeing the car lights, they threw a polythene bag away. The same was recovered by SI Balvir Ram and 3 strips of Etizolam tablets were found. Each strip contained 10 tablets, as such a total of 30 intoxicant tablets were recovered and sealed. Since the petitioner or the co-accused could not produce any license or prescription, FIR(supra) was registered against them.



3. Learned counsel for the petitioner *inter alia* contends that false and frivolous allegations have been made against the petitioner. Even as per the story of the prosecution, co-accused Hardeep Singh @ Nikka had thrown away the bag containing the intoxicant tablets. Moreover, neither any recovery has been made from the petitioner nor was a public witness joined during the entire process. Further still, the police party was patrolling in a private vehicle but the registration number of the said vehicle does not find mention in the FIR.

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 37<sup>th</sup> 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.



7. Lastly, the petitioner has been in custody since 08.10.2024 and has undergone a period of about 09 months already. Since the trial would take a considerable period to be concluded, the petitioner may be granted the concession of regular bail.

8. *Per contra* learned State counsel submits that the complicity of the petitioner is duly proved. In fact, the recovery falls within the ambit of commercial quantity and therefore, grant of concession of bail would be barred by Section 37 of the NDPS Act. He further informs the Court that 03 out of a total of 10 prosecution witnesses stand examined while 04 have been given up. The next date in the trial emanating from FIR(supra) is 18.07.2025.

9. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, this Court finds force in the arguments put forth by the learned counsel for the petitioner.

10. It transpires that the recovered contraband was analysed by the FSL and it was found to be containing the salt- Etizolam. The total weight of the tablets was assessed to be 2.76g. Further still, while deciding a regular bail petition in a case involving 7.2g of Etizolam, a Co-ordinate bench of this Court in ***Baljit Singh @ Mintu @ Baljit Gill vs. State of Punjab*** in CRM-M-15588 of 2024 decided on 30.08.2024, speaking through Justice Anoop Chitkara, has opined as follows:

*“26. Even in the present case, the quantity of a manufactured drug i.e. Etizolam tablets and it is not a hard drug like heroin, charas, opium or other synthetic drugs, thus petitioner is entitled to bail given the ratio of Chitra Basu’s case(supra).”*

11. Adverting to the matter at hand, the petitioner has allegedly been found in possession of 3 strips i.e. 30 tablets of Etizolam, weighing 2.76 g,



marginally higher than the non-commercial quantity prescribed for the same. The recovered quantity exceeds the commercial quantity for the said salt only by 0.26g. In cases where the recovery only marginally breaches the threshold for commercial quantity of the alleged contraband, this Court has found it proper to grant regular bail. Reference in this regard can be made to the judgments rendered by this Court in *Davinder Singh alias Baba vs. State of Punjab* in CRM-M-64821-2023 decided on 25.01.2024, *Gurmeet Singh vs. State of Punjab* in CRM-M-1007-2024 decided on 15.01.2024, *Ranjti Singh @ Ranjit Kumar vs. State of Punjab* in CRM-M-57185-2022 decided on 10.01.2023, *Jagtar Singh vs. State of Punjab* in CRM-M-21460-2022 decided on 08.02.2023, *Harjeet Singh alias Sonu vs. State of Punjab* in CRM-M-8242-2023 decided on 15.01.2024, *Jang Kanwar vs. State of Punjab* in CRM-M-53415-2021 decided on 19.01.2022.

12. Moreover, the petitioner has been in custody since 08.10.2024 i.e. for about 9 months. The culpability of the petitioner, if any, would be determined at the time of trial, which is at the stage of prosecution witnesses. As such, no useful purpose will be served by his further detention.

13. In view the discussion above, the present petition is allowed and the petitioner-Pawan Kumar is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

14. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.



15. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)  
JUDGE

09.07.2025  
Neha

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