

CRM-M-30604-2025
Reserved on: 01.08.2025
Pronounced on: 13.08.2025

...Petitioner

State of Punjab

...Respondent

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Ms. Pooja Nayar Sharma, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
20	01.04.2025	Qila Lal Singh, Police District Batala, District Gurdaspur	22, 27(A) & 29 of NDPS Act

1. The petitioner incarcerated for violating the above-mentioned provisions of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act) per the FIR captioned above, has come up before this Court under Section 483 BNSS seeking regular bail on the ground that the quantity of contraband is less than commercial and rigours of S. 37 of NDPS Act do not apply.

2. Per paragraph 12 of the bail petition as well as custody certificate dated 31.07.2025, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1	36	28.04.2023	22/29/61/85 of NDPS Act	Qila Lal Singh, District Gurdaspur

3. The facts and allegations are taken from the order dated 13.05.2025 passed by the Judge Special Court, Gurdaspur (Duty). On 01.04.2025 based on chance recovery, the Police seized 120 loose intoxicant tablets and Rs.2,000/- drug money from petitioner's possession. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and BNSS 2023.

4. The petitioner's counsel prays for bail by imposing any stringent conditions and

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contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family. Counsel further 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 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.

5. Counsel for the petitioner further submits that if this Court found that petitioner is not entitled for bail on merits, in that case, his case be considered for interim bail till the receipt of FSL.

6. The State's counsel opposes the bail and submits that there is criminal history of same offence against the petitioner.

7. In *Maulana Mohd Amir Rashadi v. State of U.P.*, (2012) 3 SCC 382, Hon'ble Supreme Court holds,

[10] It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.

8. While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

9. In *Paramjeet Singh v. State of Punjab*, 2022:PHHC:003983 [Para 8], CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the

suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

- 10. Given such, criminal history is not a hurdle in petitioner’s release.
- 11. The quantity allegedly involved in this case is commercial or not, is not clear as FSL report is still awaited in the present case.
- 12. Per the custody certificate dated 31.07.2025, the petitioner’s total custody in this FIR is 03 months & 27 days. Given the penal provisions invoked vis-à-vis pre-trial custody, coupled with the primafacie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.
- 13. Since the quantity and contraband are uncertain as FSL report is still awaited, as such, till the receipt of FSL, petitioner makes out a case for conditional bail. Without commenting on the case's merits, in the facts and circumstances unique and peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for conditional bail.

CONDITIONS:

- 14. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on conditional 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/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.
- 15. 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)	

- 16. This order is subject to the petitioner’s complying with the following terms.
- 17. 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

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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.

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

19. 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 Hon'ble Supreme Court holds 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."

20. In *Md. Tajiur Rahaman v. The State of West Bengal*, decided on 08-Nov-2024, SLP (Crl) 12225-2024, 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."

21. 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

22. This court had granted the conditional bail only on the grounds that the number of tablets involved are 120 and as per the petitioner's counsel, (without admitting or conceding) the drug most likely involved is Tramadol. The petitioner's counsel further submits that the weight of the substance is certainly less than commercial quantity and

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most likely falls in intermediate quantity. Ld. Counsel further submits that in case the FSL finds the contraband to be falling in commercial quantity, they would voluntarily surrender to the Court concerned, within 07 days of the communication of FSL report and the application for regular bail.

23. Notwithstanding anything stated above, if the contraband falls under the commercial quantity because of the laboratory report, then the petitioner shall be informed and supplied with a copy of the FSL report. He shall be granted 7 days time to surrender and avail legal remedy. The present bail order shall automatically stand being recalled on the 8th day of the communication of the report of FSL to the petitioner.

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

25. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

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

(ANOOP CHITKARA)
JUDGE

13.08.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.