

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32178-2025
Reserved on: 07.08.2025
Pronounced on: 26.08.2025

Rishi Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Anoop Verma, Advocate for the petitioner.

Mr. Jasdev Singh Thind, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
305	21.12.2022	A Division, District Amritsar	22-C, 27-A, 29 of NDPS Act and 420, 468, 471, 120-B, 34 IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. Per paragraph 16 of the bail application, the petitioner has no criminal antecedents.
3. The facts and allegations are taken from the status report filed by the State. On 21.12.2022, based on prior information, the Police seized 29,920 tablets (Tramadol Hydrochloride) from the possession of co-accused Nishan Sharma. During further investigation, police seized 3,20,000 tablets, 4,05,000 capsules from Usman Rajput, 3,56,800 tablets from Rajan Kumar and present petitioner and 45,925 injections, 14,925 capsules and 19,700 tablets from Manoj Kumar Sahu (all tramadol Hydrochloride). The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973.
4. The petitioner's counsel seeks bail on the grounds of prolonged pretrial custody.
5. 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 their family. He further submits that co-accused has already been granted bail by this Court.
6. 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 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.

7. The State's counsel opposes bail and refers to the status report.

REASONING:

8. It shall be relevant to refer to the following portions of status report, which reads as follows:

"3. That the deponent submits that on 21.12.2022, the accused person namely Nishan Sharma S/o Baldev Raj Sharma was apprehended on the basis of the secret information from the bus stand, Amritsar by the police party headed by Inspector Rajwinder Kaur, SHO of the Police Station A-Division, Amritsar City The accused. Nishan Sharma was informed about his legal right as prescribed under Section 50 of N.D.P.S Act, to be searched before a Magistrate or some Gazetted Officer and as per the accused (Nishan Singh) consent, his search was conducted in presence of Sh. Gurpartap Singh Sahota, PPS, then Assistant Commissioner of Police, East, Amritsar and Drug Inspector Rohit Kumar. During his search, total 29,920 intoxicating tablets of Tramadol Hydrochloride 100 mg. Cosidol-100SR Tablets, Bluepen Laboratories Pvt. Ltd (ISO 9001:2015 certified company) rock valley apartments, sew/kalan, Majra, Dehradun, UK 248001, Mlg by rapport remedies E-7/2, UPSIDC, Industrial Area, Selaqui, Dehradun, UK B. No. RRNT-11/049, B. No. RRNT 11/038, B. No. T12217 were recovered from one cardboard box lying in the jute bag holding in his hand, which were taken into police possession in accordance with law. The above said accused Nishan Sharma was arrested in this case/FIR No. 305/2022 (supra).

4. That the deponent humbly submits that on 22.12.2022, during custodial interrogation, the above said accused Nishan Sharma deposed his disclosure statement before the Investigating Officer that he used to bring intoxicating tablets from Nadeem R/o Rurki, Uttarakhand and he had already given the same to his accomplice Rajiv Kumar @ Sourav @ Mannu S/o Satish Kumar R/o H. No. 899, Gali Kandhari, Loon Mandi, PS D-Division Amritsar and to other associates many times. Rajiv Kumar alias Sourav while selling the tablets used to get more tablets from him while bringing him sale consideration and used to sell further to others. Rajiv Kumar had given him Rs. 60,000/- for bringing intoxicating tablets. He had bought the same from Roorkee Uttarakhand while spending about Rs.1,10,000/- by adding remaining money from his own pocket and some of these

tablets were to be kept by him and some were to be given to Rajiv Kumar Sourav.

5. That the deponent humbly submits that on the basis of the above disclosure statement of the above accused Nishan Sharma, the above said Rajiv Kumar Sourav @Mannu and Nadeem Rio Roorkee, Uttarakhand were implicated as co-accused(s) in this case vide FIR No. 305/2022 (supra). The co-accused Rajiv Kumar Sourav Mannu was arrested in this case on 22.12.2022 and the drug money of Rs. 29,300/- was recovered from his possession. That during the custodial interrogation, the above accused Rajiv Kumar Sourav Mannu deposed disclosure statement before the Investigating Officer that he is habitual of selling intoxicating tablets, which he used to purchase from the co-accused Nishan Sharma. The aforesaid co-accused Rajiv Kumar Sourav @ Mannu further disclosed that he had given Rs. 60,000/- in advance to Nishan Sharma for the purchase of intoxicating tablets for him and the remaining amount was given to him after selling the intoxicating tablets. It was also disclosed by the above accused Rajiv Kumar @ Sourav @Mannu that he had come to purchase intoxicating tablets from Nishan Sharma by giving him Rs. 29 to 30 thousand, but was apprehended by the police.

17. That the deponent humbly submits that during the course of investigation of the present case FIR No. 305/2022 (supra), the accused Rajan Kumar was arrested from Bihar on 08.1.2023 by the Investigating Officer. During custodial interrogation, the accused Rajan Kumar suffered disclosure statement that he along with the present petitioner Rishi Kumar and Santosh Parsad @ Dr. Rajesh Kumar were involved in supply of prohibited intoxicant tablets in Punjab, and other States. These intoxicant tablets were being received in Punjab from Manoj Sahoo owner of Blue Pen Company, Dehradun on the basis of fake bills of other medicines being used in daily routines. They had hired one auto rickshaw of one Sumit for this purpose. He (Rajan Kumar) and Rishi Kumar (present petitioner) and Santosh Prasad @ Dr. Rajesh Kumar had kept 10 to 15 boxes of intoxicant tablets in one house No. 313A, Shiv Vishar Uttam Nagar, New Delhi which was taken on rent in the name of Rajan Kumar. The same disclosure statement was also made by the present petitioner Rishi Kumar along with Rajan Kumar. Thereafter, during the investigation the present petitioner Rishi Kumar further made a disclosure statement on 10.01.2023, that he alongwith Santosh Parsad Doctor Rajesh and Rajan Kumar supply intoxicating tablets in Punjab and other states and these intoxicating tablets are supplied from Bluepen Laboratory, Dehradun and on the instructions of its owner Manoj Sahoo, the intoxicating tablets are supplied to Delhi by preparing forged bills dally in the name of Delhi Medicine, they send it to Punjab through courier. Therefore, on the basis of the above disclosure statements of Rajan Kumar and present petitioner Rishi Kumar and identification made by them, 15 boxes containing total 3,56,800/- intoxicating tablets (Tramadol Hydrochloride) were recovered on 11.01.2023 from the above said rented house No. 313-A, Shiv Vihar, Uttam Nagar, New Delhi, which were taken into police possession in the present case FIR No. 305/2022 (supra) in accordance with law. The joint disclosure statement of the petitioner

Rishi Kumar and Rajan Kumar and disclosure statement of the petitioner Rishi Kumar are annexed herewith as Annexure R-3/T and Annexure R-4/T for the kind perusal of this Hon'ble Court."

9. Tramadol constitutes an offense under the following provisions and notifications:

Substance Name	Tramadol
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<i>Drug's Small & Commercial Qty. suggested by Committee report</i>	
Notification No. & date	S.O. 1762 (E) dated 26.04.2018
Punishable U/s	S.22(a) of NDPS Act, 1985

<i>Specified as small & Commercial in S.2(viia) & 2(xxiii) NDPS Act, 1985</i>		
Notification No. & dated	S.O.1762(E)	4/26/2018
Sr. No.	238 ZH	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	Tramadol	
Other non-proprietary name	*****	
Chemical Name	*****	
Small Quantity	< 5 Gram	
Commercial Quantity	> 250 Gram	

Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) & 2(xxiii) NDPS Act, 1985		
Notification No. & dated	S.O.1761(E) & S.O. 3448(E)	26-Apr-2018 & 26-Jul-2018

Sr. No.	110Y	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	Tramadol	
Other non-proprietary name	*****	
Chemical Name	*****	

10. 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.

11. Earlier, a Co-ordinate bench had dismissed the petitioner's bail on merits; however, the trial has delayed, and now this Court has considered the bail only on the ground of delay in trial.

12. 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.

13. In *Ajay Khatri v. The State of Rajasthan*, decided on 20-03-2025, SLP (Crl) No. 1228-2025, the Hon'ble Supreme Court holds,

The case of the prosecution is that 6600 Alprazolam Tablets weighing 818.4 grams have been recovered from his possession. He has already undergone more than one year in jail.

Considering the period of incarceration of the petitioner, we are of the opinion that a case of bail is made out for the petitioner and therefore, the prayer for bail is allowed.

14. Per the custody certificate dated 06.08.2025, the petitioner's custody in this FIR is 02 years, 06 months and 19 days.

15. 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.

16. 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, coupled with the other factors peculiar to this case, further pre-trial incarceration is not justified at this stage. However, this order shall take effect from the time it is uploaded to this Court's official webpage.

CONDITIONS:

17. Given 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. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

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

18. 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)

19. This order is subject to the petitioner’s complying with the following terms.

20. 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.

21. Given the background of allegations against the petitioner, it becomes paramount to protect the detection squad, members of society, 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.

22. 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.”

23. 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."

24. 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.

25. *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.*

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

27. 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."

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

(ANOOP CHITKARA)
JUDGE

26.08.2025
Jyoti Sharma

Whether speaking/reasoned : Yes
Whether reportable : No.