



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

218

CRM-M-33366-2025

Date of decision: 12.11.2025

Sumit

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Sanjeev Majra, Advocate for the petitioner.

Mr. Vishal Singh, AAG, Haryana.

AARADHNA SAWHNEY, J.(ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No. 54 dated 25.01.2025 registered against him, for commission of offences punishable under Sections 22(c), 29-61-85 of Narcotic Drugs and Psychotropic Substances, Act 1985 at Police Station Krishna Gate Thanesar, District Kurukshetra, has prayed for grant of bail.

2. In brief, the case of the prosecution is that on the basis of secret information received by police team headed by ASI Sanjay Kumar, a nakka was laid at the disclosed place and 2 persons namely Satbir Singh son of Mani Ram and Kapil Dev son of Girdhari Lal were caught. From the dashboard of the car bearing registration No.HR-07AA-0185 driven by Satbir Singh (Kapil Dev was on the conductor seat), a white coloured polythene bag was recovered, in which 2160 capsules (90 strips containing 24 capsules each), total weighing 1 Kg. 300 grams 32 milligrams of AKS Primevon containing Dicyclomine Hydrochlorid Tramadol Hydrochloride and Actaminophen salt (contraband falls within the ambit of 'Commercial' Quantity) were recovered. After the statutory formalities were complied with, FIR was lodged. Both the aforesaid persons were arrested at the site on 25.01.2025.



During the course of interrogation, they disclosed that the recovered contraband had been purchased from one Ajay Kumar for Rs.50,000/-. Based upon the said disclosure statement Ajay Kumar arrested on 26.01.2025. They further disclosed that present petitioner namely Sumit Kumar son of Surinder Kumar had placed an order for contraband and had also transferred some money. The names of the other accused involved in the incident also came to the light of the investigating authorities in the disclosure statements of both co-accused Satbir and Kapil. During further course of investigation, call details record of the persons arrested at the site revealed that there were frequent telephonic conversations between them and petitioner. Thus, the name of the petitioner cropped up during the disclosure statements of co-accused Satbir and Kapil. Resultantly, the present petitioner was arrested on 25.01.2025.

On culmination of investigation, challan was prepared and filed in the Court on 10.07.2025.

3. Petitioner/accused who was arrested on 25.01.2025 moved an application for grant of bail before the learned Additional Sessions Judge, Kurukshetra. The same was dismissed vide order dated 09.04.2025. Aggrieved of which, the present petition has been filed.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated, he was neither found at the spot, nor any recovery was effected from him. He (petitioner) was nominated as an accused only on the basis of disclosure statements made by co-accused Satbir and Kapil, who were arrested at the site and from the car being driven by one of them total 2160 capsules of AKS Primevon weighing 1 Kg. 300 grams 32 milligrams containing Dicyclomine Hydrochlorid Tramadol Hydrochloride and Actaminophen salt (contraband falls within the ambit of 'Commercial')



Quantity) were recovered. These disclosure statements are not admissible in evidence, being confessional in nature made before the police authorities, in view of Section 25 of the Indian Evidence Act. Further, the falsity of the case set up by the prosecution is apparent from the fact that though the alleged recovery of contraband was effected from busy public place but no efforts were made to join any independent person as a witness to the case proceedings.

Learned counsel has also referred to the judgment dated 25.09.2025 of the Coordinate Bench in CRM-M-23082-2025 vide which co-accused Sonam Kumar Singla (similarly situated as the present petitioner) was granted the concession of bail in the aforesaid FIR. It is, thus, the submission of learned counsel that similar treatment be meted out to the petitioner in the present case as well.

Continuing further learned counsel next submits that investigations in the present case are complete, for challan was filed on 10.07.2025, but till date out of 29 witnesses, none has been examined, thus the possibility of completion of trial in the near future is quite remote. In view of the above submissions raised, it has been prayed that further incarceration of the petitioner in custody, would not serve any useful purpose and would also be violative of his fundamental rights guaranteed under Article 21 of the Constitution of India. It has thus been prayed to take lenient view in petitioner's favour, who has been in custody since 25.01.2025 by extending him the concession of bail. Prayer for allowing the petition has been made.

5. Copy of status report dated 04.08.2025 by way of affidavit of Inspector Rishi Pal, Kurukshetra has been placed on record. Learned State counsel has opposed the request for grant of bail on the ground that in view



of the quantity and nature of the contraband recovered from the co-accused arrested at the site, the rigors of Section 37 of NDPS Act are attracted which bar the grant of bail, unless the twin conditions prescribed in the provision are satisfied. In the instant case, call details record reveal that petitioner and those arrested at the site were in constant touch with each other. Petitioner had purchased the contraband and had also transferred some money in the account of one of the accused so arrested at the site. Further, the fact that he is involved in one another case of like nature (FIR No.55 dated 25.01.2025 under Sections 22(C), 29-61-85 of NDPS Act), no case for grant of bail is made out. Dismissal of the petition has been prayed for.

6. I have heard the learned counsel for the parties and have gone through the documents on record.

7. Before proceeding to discuss the rival contentions, it would be appropriate to refer to certain judgments of Hon'ble Supreme Court wherein case titled as ***Shambu Lal Gurjar Vs. State of Rajasthan, SLP Criminal 16671 of 2024***, decided on 23.04.2024, it was held as under:-

“The allegations against the petitioner is that there is a recovery of 60 kgs poppy husk/straw (contraband article) from him and prior to this incident, he has three criminal antecedents relating to the NDPS Act registered in the year 2019, 2021 and 2022. The third bail application of the petitioner was dismissed by the High Court. He has already undergone about 1 year and 8 months in jail.

Heard learned counsel for the petitioner and the respondent State.

Considering the fact that the contraband article is a poppy straw although he has three criminal antecedents but since he has been in jail for the last 1 year and 8 months, we are of the opinion that a case of bail is made out for the petitioner.”



Further in ***Chitta Bishwas @ Shubash Vs. State of West Bengal Law Finder Doc Id# 1938935***, considering the duration of custody and progress in trial, Hon'ble Supreme Court granted bail to an accused/appellant who was found in possession of 46 bottles of PHENSYDRYL Cough Syrup containing codeine mixture above commercial quantity.

In ***Md Aliul Islam @ Aliul Islam @ Aliul Vs. State of West Bengal Law Finder Doc Id# 2734487***, Hon'ble Supreme Court granted bail to an accused, involved in a case under Section 21(c)/27A of NDPS, considering custody period and similarity with other accused, whose bail had been allowed.

Similarly in ***Devrata Mondal Vs. State of West Bengal Law Doc Finder Id # 2734476***, on the ground of prolonged custody and parity with other accused, co-accused Davrata, who was allegedly caught keeping in his possession 290 bottles of PHENSYDRYL Cough Syrup (Commercial quantity) was granted the concession of bail by the Hon'ble Supreme Court.

In ***Santarul Islam Vs. State of West Bengal, Law Finder Doc Id# 2735329***, Hon'ble Supreme Court granted bail to the petitioner who was also caught keeping in his illegal possession of PHENSYDRYL Cough Syrup (on the ground of prolonged custody and nature of contraband).

It is, thus, clear that criminal antecedents by themselves, is not a legal ground to deny the rigors of Section 37 of the NDPS Act, particularly in cases where the accused-petitioners are in custody for a long period. Reverting back to the facts of the case in hand, admittedly, the petitioner was not arrested at the site. Name of the petitioner cropped up in the disclosure statements of the co-accused, the admissibility and reliability of the said statement is a question which would be decided during the course of trial



based on the evidence adduced on the case file. Considering the fact that petitioner has been in custody since 25.01.2025, challan was filed on 10.07.2025, the likelihood of completion of trial is quite remote as out of 29 prosecution witnesses, none has been examined till date, also taking note of the fact that Coordinate Bench of this Court has already granted concession of bail to co-accused Sonam Kumar Singla, this Court is, thus, of the opinion that in view of the facts and circumstances as mentioned above, further incarceration of petitioner in custody would not serve any purpose. Resultantly, petitioner is granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

- (i) The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) The petitioner will not tamper with the evidence during the trial.*
- (iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- (vii) The petitioner shall not in any manner misuse his liberty.*



(viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.

(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

8. Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)
JUDGE

12.11.2025

Hemant

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