

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

CRM-M-33605-2025
Reserved on: 08.07.2025
Pronounced on: 30.07.2025

Amit Singhmar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ajay Nain, Advocate and
Mr. Kartik Khicher, Advocate
for the petitioner.

Ms. Harpreet Kaur, A.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
102	03.06.2025	Bass, District Hisar	20 (b) (ii) (C) of NDPS Act (Section 27(A) of NDPS Act added later on)

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. Per paragraph 6 of the bail application and paragraph 9 (F) of the status report, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	321	17.08.2023	20B/61/85 of NDPS Act	Sadar Hansi
2.	53	14.02.2020	386 IPC	Azad Nagar
3.	256	21.09.2019	279/304-A IPC	Uklana

3. The facts and allegations are taken from the status report filed by the State. On 03.06.2025, based on the secret information, the police officials got to know that Sunil Kumar deals in ganja and even at that time he was transporting it in a vehicle. After that, the investigator claims to have complied with the provisions of NDPS Act and BNSS and was able to spot the vehicle and asked the driver about his name, who told his name to be Sunil Kumar. State's case is that after complying with the provisions of NDPS Act and in

terms thereof, they searched the vehicle and recovered ganja, which weighed 25 kilograms and 520 grams.

4. After that, the investigator claims to have arrested the co-accused after complying with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973. During the custodial interrogation, Sunil Kumar disclosed the involvement of petitioner and based on such information and investigation, he was arraigned as an accused.

5. Apprehending arrest, petitioner had filed a bail petition before the Sessions Court, which was dismissed and feeling aggrieved, he came up before this court.

6. 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.

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

8. It would be appropriate to refer to the following portions of the status report, which read as follows:

“4. That on 04.06.2025, accused Sunil Kumar suffered disclosure statement (Annexure R-1) and disclosed that "Amit (petitioner-accused) son of Raj Pal resident of Badala is my friend. We both were in jail in 2017 in a case of fighting and Kulbir resident of Deshkheda tehsil Julana also keeps visiting to meet my friend Amit (petitioner-accused), due to which, I also became friends with Kulbir. He further disclosed that Amit (petitioner-accused) and Kulbir (co-accused) both are involved in illegal business of smuggling of Ganja and both Amit (petitioner-accused) and Kulbir (co-accused) told me that you should also start smuggling of Ganja with us and whatever profit we make, will be shared among three of us on which, I started supplying Ganja as per their instruction and I started getting profit in lieu of supplying ganja, due to which my household started running well. He further disclosed that on 01.06.2025, I received a call from Kulbir from +1(559)213-1565 WhatsApp number on my mobile on my number 90506-85521 and he told me to come to Hansi on 03.06.2025 to supply ganja and told that Amit (petitioner) will discuss the rest of the matter with you and thereafter, Amit (petitioner) talked to me from his mobile no. 99920-92555 on my mobile no. 90506-85521 and told me that he (petitioner Amit) and Kulbir have talked about supplying ganja and you should reach village Bass on 03.06.2025, then co-accused Kulbir will come there in his vehicle no. HR20AC0056. On 03.06.2025 I got a call from Amit (petitioner) that you should go from Bass to Badala road in the afternoon and Kulbir will come there in his vehicle and he will bring 25 kg 500 grams of Ganja in vehicle bearing Reg. No. HR20AC0056. When I reached village Bans as per instructions of Amit (petitioner), co-accused Kulbir met me there with Ganja in his vehicle No. HR20AC0056. He gave me the vehicle and showed me the bag containing 25 kg 500 grams of Ganja and

instructed me to take said vehicle and Ganja to Hansi and instructed that after reaching Hansi, talk to him and with Amit (petitioner) and they will tell me where to deliver the Ganja and assured him that they will give him a hefty commission after supplying the Ganja. When I was going from Gadhi to Hansi with 25 kg 500 grams of ganja in vehicle no. HR20AC0056 of Kulbir, police caught me near village Gadhi along with the ganja.

9. That in compliance of order dated 01.07.2025, point wise brief details qua to the petitioner-accused Amit Singhmar is as under:-

A. The name and total weight of the drug: -

That in the present case, total 25 kg 520 grams 'Ganja' was recovered from co-accused Sunil Kumar while he was driving in his car.

B. The evidence based on which the petitioner was arraigned as an accused:

That the name of present petitioner-accused Amit Singhmar has been disclosed by main accused Sunil Kumar in his disclosure statement (Annexure R-1).

C. The evidence against the petitioner:

(i) That as per the disclosure statement of co-accused Sunil Kumar, Amit Singhmar (petitioner-accused) was actively involved in the crime as there are several phone calls as well as whatsapp calls between petitioner-accused Amit Singhmar and co-accused Sunil Kumar from whose possession present recovery was made.

(ii) That during investigation, Investigating Officer obtained Call details record of mobile number 9992092555 of petitioner-accused Amit Singhmar and mobile number 9050685521 used by co-accused Sunil and on perusal of the Call details record it has been found that there are several conversations between co-accused Sunil Kumar and petitioner-accused Amit Singhmar. Relevant call details record is given below: -

Mob. No. of petitioner-accused Amit Singhmar	Mob. No. of co-accused Sunil	Date	Remarks
9992092555	9050685521	02.05.25	1 time
9992092555	9050685521	03.05.25	3 times
9992092555	9050685521	04.05.25	3 times
9992092555	9050685521	05.05.25	4 times
9992092555	9050685521	06.05.25	3 times
9992092555	9050685521	07.05.25	5 times
9992092555	9050685521	09.05.25	2 times
9992092555	9050685521	10.05.25	7 times
9992092555	9050685521	11.05.25	2 times
9992092555	9050685521	12.05.25	5 times

9992092555	9050685521	14.05.25	7 times
9992092555	9050685521	16.05.25	4 times
9992092555	9050685521	17.05.25	3 times
9992092555	9050685521	18.05.25	8 times
9992092555	9050685521	19.05.25	1 time
9992092555	9050685521	20.05.25	4 times
9992092555	9050685521	21.05.25	2 times
9992092555	9050685521	22.05.25	6 times
9992092555	9050685521	01.06.25	2 times
9992092555	9050685521	02.06.25	5 times
9992092555	9050685521	03.06.25	1 time

iii) That it is also pertinent to mention here that mobile phone which was recovered from co-accused Sunil Kumar from the spot, mobile number 9992092555 of petitioner-accused Amit Singhmar was found saved with the name TAVR' from which, there are several whatsapp calls have been found between co-accused Sunil and petitioner on the date of the incident, i.e. 03.06.2025. Screen shots of mobile phone co-accused Sunil Kumar is annexed herewith as Annexure R-2 for the kind perusal of the Hon'ble High Court.

(iv) That apart from this, mobile phone brand 'JIO KARBON' which was recovered from vehicle no. HR20AC0056 in which sim number 9518131617 was found inside said mobile, whose ID was found in the name of one Ankit son of Azad Singh, resident of Petwad, police station Narnaund, District Hisar. During investigation, statement of said subscriber Ankit was recorded wherein he stated that I had given the said SIM card to Amit (petitioner-accused) son of Rajpal, resident of Badala and Amit (petitioner-accused) was using that SIM. True translation of Ankit (subscriber of mobile number 9518131617 is annexed herewith as Annexure R-3 for the kind perusal of the Hon'ble High Court. On checking of mobile phone of co-accused Sunil, it has also been found that there are several whatsapp calls between co-accused Sunil and co-accused Kulbir.

D. THE ROLE OF THE PETITIONER:

That the petitioner-accused Amit Singhmar played a pivotal role in the conspiracy to smuggle Ganja. According to the disclosure statement of co-accused Sunil Kumar, petitioner-accused Amit along with co-accused Kulbir was involved in the illegal business of smuggling Ganja and they both conspired to involve Sunil in their Ganja smuggling business, promising to share profits. Petitioner-accused Amit gave instructions to co-accused Sunil regarding the supply of Ganja, including the location and timing of the transaction. Petitioner-accused Amit worked in tandem with co-accused Kulbir to facilitate the supply of Ganja, ensuring that co-accused Sunil received the contraband and was aware of the delivery details. As per disclosure statement of co-accused Sunil, action of petitioner-accused Amit, demonstrate his culpability in the offense and his role as a key player in the conspiracy to smuggle Ganja. His involvement in the conspiracy and coordination

with co-accused Kulbir and co-accused Sunil establish his liability for the offense.”

9. Perusal of para no.9 of status report clearly mentions a large number of call details between petitioner and main accused. The petitioner had massive criminal antecedents which would further corroborate petitioner’s involvement in the present case vis-a-vis call details which is a digital evidence and is sufficient prima facie to deny him bail.

10. The quantity allegedly involved in this case is commercial. Given this, the rigors of S. 37 of the NDPS Act and the petitioner must satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act.

11. Given the above, the petitioner has, prima facie, failed to satisfy the conditions of section 37 of the NDPS Act to make a case for bail.

12. In *Abida v. State of Haryana*, 2022:PHHC:058722, [Para 10], CRM-M-5077-2022, decided on 13-05-2022, this court observed as follows:

[10]. Thus, both the twin conditions need to be satisfied before a person accused of possessing a commercial quantity of drugs or psychotropic substance is to be released on bail. The first condition is to provide an opportunity to the Public Prosecutor, enabling to take a stand on the bail application. The second stipulation is that the Court must be satisfied that reasonable grounds exist for believing that the accused is not guilty of such offence, and is not likely to commit any offence while on bail. If either of these two conditions is not met, the ban on granting bail operates. The expression “reasonable grounds” means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. Even on fulfilling one of the conditions, the reasonable grounds for believing that the accused is not guilty of such an offence, the Court still cannot give a finding on assurance that the accused is not likely to commit any such crime again. Thus, the grant of bail or denial of bail for possessing commercial quantity would vary from case to case, depending upon its facts.

[30]. From the summary of the law relating to rigors of S.37 of NDPS Act, while granting bail involving commercial quantities, the following fundamental principles emerge:

(a). In case of inconsistency, S. 37 of the NDPS Act prevails over S. 439 CrPC. [*Narcotics Control Bureau v Kishan Lal*, 1991 (1) SCC 705, Para 6].

(b). The limitations on granting of bail come in only when the question of granting bail arises on merits. [*Customs, New Delhi v. AhmadalievaNodira*, (2004) 3 SCC 549, Para 7].

(c). The provisions of Section 37 of the NDPS Act provide the legal norms which have to be applied in determining whether a case for grant of bail has been made out. [*UOI v. Prateek Shukla*, **2021:INSC:165 [Para 11]**, (2021) 5 SCC 430, Para 12].

(d). In case the Court proposes to grant bail, two conditions are to be mandatorily satisfied in addition to the standard

requirements under the provisions of the CrPC or any other enactment. [Union of India v. Niyazuddin SK &Anr, **2017:INSC:686 [Para 7]**, (2018) 13 SCC 738, Para 7].

(e). Apart from granting opportunity to the Public Prosecutor, the other twin conditions which really have relevance are the Court's satisfaction that there are reasonable grounds for believing that the accused is not guilty of the alleged offence. [N.R. Mon v. Md. Nasimuddin, (2008) 6 SCC 721, Para 9].

(f). The satisfaction contemplated regarding the accused being not guilty has to be more than prima facie grounds, considering substantial probable causes for believing and justifying that the accused is not guilty of the alleged offence. [Customs, New Delhi v. Ahmadalieva Nodira, (2004) 3 SCC 549, Para 7].

(g). The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. [State of Kerala v. Rajesh, **2020:INSC:88 [Para 21]**, AIR 2020 SC 721, Para 21].

(h). Twin conditions of S. 37 are cumulative and not alternative. [Customs, New Delhi v. Ahmadalieva Nodira, (2004) 3 SCC 549, Para 7].

(i). At the bail stage, it is neither necessary nor desirable to weigh the evidence meticulously to arrive at a positive finding as to whether or not the accused has committed an offence under the NDPS Act and further that he is not likely to commit an offence under the said Act while on bail. [Union of India v. Rattan Mallik @ Habul, (2009) 2 SCC 624, Para 14].

(j). If the statements of the prosecution witnesses are believed, then they would not result in a conviction. [Babua v. State of Orissa, (2001) 2 SCC 566, Para 3].

(k). Merely recording the submissions of the parties does not amount to an indication of a judicial mind or a judicious application of mind. [UOI v. Prateek Shukla, **2021:INSC:165 [Para 11]**, (2021) 5 SCC 430, Para 12].

(l). Section 37 departs from the long-established principle of presumption of innocence in favour of an accused person until proved otherwise. [Union of India v. Sanjeev v. Deshpande, (2014) 13 SCC 1, Para 5].

(m). While considering the application for bail concerning Section 37, the Court is not called upon to record a finding of not guilty. [Union of India v. Shiv Shanker Kesari, (2007) 7 SCC 798, Para 11].

(n). The confessional statement recorded under Section 67 of the NDPS Act is inadmissible in the trial of an offence under the NDPS Act. [Tofan Singh v. State of Tamil Nadu, **2020:INSC:620**, (2021) 4 SCC 1]

(o). In the absence of clarity on the quantitative analysis of the samples from the laboratory, the prosecution cannot be heard to state at this preliminary stage that the accused possessed a commercial quantity of psychotropic substances as contemplated

under the NDPS Act. [Bharat Chaudhary v. Union of India **2021:INSC:877 [Para 11]**, 2021 SCC OnLine SC 1235, Para 10].

(p). When there is evidence of conscious possession of commercial quantity of psychotropic substances, such accused is not entitled to bail given Section 37 of the Act as contemplated under the NDPS Act. [State by (NCB) Bengaluru v. Pallulabid Ahmad Arimutta, **2022:INSC:26 [Para 11]**, 2022 SCC OnLine SC 47, Para 12].

(p). Bail must be subject to stringent conditions. [Sujit Tiwari v. State of Gujarat, **2020:INSC:101 [Para 12]**, 2020 SCC Online SC 84, Para 12].

[31]. Satisfying the fetters of S. 37 of the NDPS Act is candling the infertile eggs. The stringent conditions of section 37 placed in the statute by the legislature do not create a bar for bail for specified categories, including the commercial quantity; however, it creates hurdles by placing a reverse burden on the accused, and once crossed, the rigors no more subsist, and the factors for bail become similar to the bail petitions under general penal statutes like IPC.

13. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. The impact of crime would also not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

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

15. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

30.07.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.