

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34059-2025
Reserved on: 07.08.2025
Pronounced on: 28.08.2025

Amanpreet Singh @ Mamna ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Imraan Farooqi, Advocate
For the petitioner (through V.C.).

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

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
27	15.02.2025	Amargarh, District Malerkotla	21 of NDPS Act and 305/331(4) BNS

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 custody certificate, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	75/2025	-	238, 262 BNS	Amargarh

3. The facts and allegations are taken from the status report filed by the State, which reads as follows:

“5. That on dated 14-04-2025 when SI Surjeet Singh 968/PTL alongwith police officials was on patrolling in the area of Chowki PS Himatana and reached near the house of complainant where complainant. Raj Kumari joined the investigation and recorded her supplementary statement by stating that on 15-02-2025 on the basis of dated 13-04-2025 my statement regarding the theft in my house present FIR was lodged against unknown person(s) tomorrow or my maid Babita Babbi wife of late Gagan Kumar resident of village hiamtana disclosed that direction of the cameras of our house is changed and the lock of the store is broken, then complainant alongwith her son Gary Malhotra saw in their house that back side camera of the house is facing upwards and front camera of the house was also facing upward and lock of the back store room was broken and the window of the upper portion was also damaged but no household article was found to be stolen. Thereafter the complainant and her son Gary Malhotra checked the CCTV camera footage and noticed one person roaming over the rooftop of the house and found that the said person is our neighbor Amanpreet Singh Mamna

son of Jamaldin resident of Village Himatana. We are totally assured that the earlier incidence of theft was also committed by Amanpreet Singh Mamna and other persons. The CCTV Footage is stored in pendrive was handed over to the police officials.

6. That on dated 14-04-2025 SI Surjeet Singh 968/PTL arrested the accused/petitioner @ Mamna and Amanpreet Singh petitioner/accused confessed that on 06/07-02-2025 in the midnight committed the theft in the house of Gary Malhotra after breaking the locks of the house and stolen Rs. 70,000/- from Almirah, 2 artificial Bangles, 1 ladies watch, apple phone and DVR of cameras. The stolen watch and apple phone gave to Shami son of Saleem Khan resident of Himatana and out of the stolen money, some money was spent by me and purchased one laptop and with the remaining money I bought 15 gm of Heroine(Chitta) from unknown persons at Dhuri for the purpose to sell, out of the 15 gm heroine 5 gm Heroine was already sold by me to my customers and remaining 10 gm heroine(Chitta), 2 artificial Bangles, hard disk of DVR, laptop and 1 iron pipe after putting in 1 polythene and further put it in one plastic concealed them in one vacant room located in graveyard under the stubble at village Mohammadgarh.

7. That on the basis of the discloser statement under section 23(2) BSA, the petitioner got recovered heroine (Chitta), 2 artificial Bangles, hard disk of DVR, laptop and 1 iron pipe from one vacant room located in graveyard under the stubble at village Mohammadgarh. The accused with his own hands picked up plastic bag and produced before the SI Surjeet Singh and found heroine(Chitta), 2 artificial Bangles, hard disk of DVR, laptop and 1 iron pipe and keyboard and mouse and the same were taken into possession by the police and prepared recovery memo regarding the same. thereafter SI Surjeet Singh weighed the Chitta/Heroine with computerized weight scale and the weight of the Heroine/Chitta was 10 gm and the Heroine was put into cloth parcel and prepared the parcel and the same was sealed with stamp SS, sample seals were prepared separately, stamp after use was handed over to ASI Narinder Kumar No. 977/SGR, recovered Chitta/Heroine along with sample seals taken into possession after preparing memo, memos were attested by witnesses and offence under section 21/61/85 NDPS Act and section 317(2) BNS was added in the present FIR. The accused Shami son of Salem Khan resident of Himatana, PS Amargarh was nominated as accused in the present case. Rough site plan of place of occurrence was Postpared and statements of witnesses under Section 180 of BNSS were also recorded by the Investigating Officer.”

4. Thus, based on disclosure statement, made in another case, the Police, in addition to the stolen articles, also seized 10 grams of heroin from the petitioner’s possession. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973.

5. The petitioner's counsel seeks bail on the grounds of prolonged pretrial custody.

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 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.

8. The State’s counsel opposes bail and refers to the status report.

REASONING:

9. As per paragraph 7 of the status report, the name of the contraband is heroin and its weight is 10 grams, and it constitutes an offense under the following provisions and notifications:

Substance Name	Heroin/ Chitta/ Smack/ Brown Sugar/ Diacetylmorphine
Quantity detained	10 Gram
Quantity type	Intermediate
<i>Drug Quantity in % to upper limit of Intermediate</i>	4.00%

<i>Drug's Small & Commercial Qty. suggested by Committee report</i>	
Notification No. & date	Expert Committee Report dated 24.03.1995 & 23.08.2001 (Small and Commercial)
Punishable U/s	S.21(b) of NDPS Act, 1985

<i>Specified as small & Commercial in S.2(viia) & 2(xxiii a) NDPS Act, 1985</i>		
Notification No. & dated	S.O.1055(E)	10/19/2001
Sr. No.	56	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	Heroin	
Other non-proprietary name	*****	
Chemical Name	Diacetylmorphine	
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.(xvi)(d) NDPS Act, 1985 (61 of 1985), S.O. 821 (E)	11/14/1985

Sr. No.	2(xvi)(d)
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	*****
Other non-proprietary name	*****
Chemical Name	2(xvi)(d) diacetylmorphine, that is, the alkaloid also known as dia-morphine or heroin and its salts; Explanation.-- For the purposes of clauses (v) (vi), (xv) and (xvi) the percentages in the case of liquid preparations shall be calculated on the basis that a preparation containing one per cent. of a substance means a preparation in which one gram of substance, if solid, or one mililitre of substance, if liquid, is contained in every one hundred mililitre of the preparation and so on in proportion for any greater or less percentage: Provided that the Central Government may, having regard to the developments in the field of methods of calculating percentages in liquid preparations prescribed, by rules, any other basis which it may deem appropriate for such calculation.

10. Given the quantity involved, rigors of Section 37 of NDPS Act would not apply in the present case.
11. Section 2 (vii-a) of the NDPS Act defines commercial quantity as the quantity greater than the quantity specified in the schedule. Section 2 (xxiii-a) defines a small quantity as a quantity less than the quantity specified in the table of the NDPS Act. The remaining quantity falls in an undefined category, generally called an intermediate quantity. All sections in the NDPS Act specify an offence and mention the minimum and maximum sentence, depending upon the quantity of the substance. The commercial

quantity mandates a minimum sentence of ten years of imprisonment and a minimum fine of Rupees One hundred thousand, and bail is subject to the riders mandated in S. 37 of the NDPS Act. When the quantity is less than commercial, the restrictions of Section 37 of the NDPS Act will not attract, and the factors for bail become similar to the offence regular statutes.

12. Per the custody certificate dated 06.08.2025, the petitioner's custody in this FIR is of 03 months and 20 days.

13. 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.

14. 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.

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 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, 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.

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 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."

20. 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."

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 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.

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

23. 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."

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

(ANOOP CHITKARA)
JUDGE

28.08.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.