



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

298

**CRM-M No.38985 of 2024
Date of decision : 14.1.2025**

Nirmal Singh alias Nima**Petitioner**

Versus

State of Punjab**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Yajur Sharma, Advocate, for the petitioner

Ms. Avneet, AAG, Punjab

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.201 dated 23.11.2017, under Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Lopoke, District Amritsar Rural.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'SHO P.S Lopoke, "Today I ASI Along with other police officials were present at Bus Stand 'NAVA JEEWAN' in search of anti- social elements, then one person was seeing coming on his scooter Hero Maestro, white colour at a high speed and on seeing the police present at the spot, he tried to turn around, because of which the tyre of the vehicle skid and he fell on the road. He was apprehended on the basis of suspicion with the help of police party and on asking he disclosed his identity as Nirmal Singh alias Nima s/o Jagir Singh R/o Village Lopoke. On search of the



accused, intoxicant tablets and intoxicant power wrapped in a polythene were recovered from the right pocket of his pants. On checking the same, the intoxicant tablets were found to be 200 in number bearing peach colour, while the weight of the intoxicant powder came to be 100 grams. ASI tried to join public witnesses but none was ready to be a witness citing personal reasons. The recovered 200 intoxicant tablets and 100 grams of intoxicant powder were put in separate plastic containers and two parcels were prepared and sealed bearing impression M.S and sample seal was prepared separately and were taken into possession vide recovery memos. Since the recovery was effected by chance, thus no Gazetted Officer or a Magistrate could be called at the spot. Thus Nirmal Singh alias Nima by keeping 200 intoxicant tablets and 100 grams of intoxicant powder prima facie committed offence under section 21, 22 of NDPS Act 1985. Dated 23.11.2017 Sd/- I.O Mukhtar Singh.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 12.1.2024. Learned counsel has further iterated that the petitioner was granted the concession of bail vide order dated 7.6.2018 passed by the trial Court whereinafter he was regularly appearing. However, he could not appear before the Court concerned on 9.11.2023 whereinafter he was declared a proclaimed offender. Subsequently, the petitioner came to be apprehended on 12.1.2024 and is in continuous custody since then. Learned counsel for the petitioner has further iterated that the petitioner is aged about 42 years and is the prime bread earner of his family. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 14.1.2025 in Court, which is taken on record.



5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was initially granted the concession of regular bail on 7.6.2018. The petitioner is alleged to have been in conscious possession of contraband (100 grams of tramadol and 200 tablets consisting 26.6 grams of alprazolam), which is admittedly non-commercial in nature. Total 10 prosecution witnesses have been cited out of which two have been examined till date. Thus, it is indubitable, that culmination of trial will take long. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. In the considered opinion of this Court, no useful purpose will be served by keeping the petitioner in further incarceration. As per custody certificate dated 14.1.2025 filed by learned State counsel, the petitioner has already suffered total incarceration of about one year, one month and twenty days.

As per the said custody certificate, the petitioner is said to be involved in two other pending criminal cases. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the



facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586*; a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in *CRM-M No.38822-2022* titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of



the trial Court/Illaqa Magistrate.

(vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

14.1.2025
Ashwani

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