

CRM-M-36461-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36461-2025
Reserved on:17.07.2025
Pronounced on: 31.07.2025

Arshdeep Singh @ Gajji ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Navjot Kaur, Advocate for
Mr. B.S. Bhalla, Advocate
for the petitioner(s).

Mr. Jasdev Singh Thind, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
73	24.04.2025	Jandiala, District Amritsar Rural	21-B, 27 A & 29 of NDPS Act

1. The petitioner incarcerated in the FIR captioned above has come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 18 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are taken from translated copy of the FIR (Annexure P-1). On 24.04.2025, based on chance recovery, the Police seized 20 grams of heroin and Rs.8,600/- as drug money from co-accused Sandeep Singh alias Sabhi The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and BNSS 2023. Petitioner was arraigned as accused based on the disclosure statement.
4. During the course of investigation, the petitioner was nominated u/s 29 of NDPS Act.
5. The petitioner's counsel seeks bail on the grounds of prolonged pretrial custody as well as on parity with Rajinder Singh @ Joban, who was granted bail by the trial Court vide order dated24.06.2025.
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

CRM-M-36461-2025

petitioner and their family. Counsel further 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.

REASONING:

8. The quantity of heroin recovered does not fall under commercial category.

9. The police had recovered Rs.8,600/- from the accused persons but not from the petitioner and therefore there is no evidence to connect money or drugs with the petitioner. Main allegations are of criminal conspiracy for illicit financing and sale of drug in the area. Statutory mandate of S. 23 (1) and (2) of BSA, 2023, invoked the stringent penal provision of S. 27-A just to trigger the legislative restrictions placed on bail through S. 37 of NDPS Act. In such a background, S. 37 of the NDPS Act shall neither attract in law nor through its inclusion in the FIR.

10. S. 27A of the NDPS Act reads as follows:

27A. Punishment for financing illicit traffic and harbouring offenders.—Whoever indulges in financing, directly or indirectly, any, of the activities specified in sub-clauses (i) to (v) of 3[clause (viii**b**) of section 2] or harbours any person engaged in any of the aforementioned activities, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:
Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

11. At the stage of invocation of S. 27A, there was no *prima facie* evidence of financing, directly or indirectly. Thus, the rigors of S. 37 of the NDPS Act shall also not attract.

12. When the restrictions of Section 37 of the NDPS Act do not attract, the factors for bail become similar to the offence regular statutes.

13. Per the custody certificate dated 16.07.2025, the petitioner's custody in this FIR is of 02 months & 20 days.

CRM-M-36461-2025

14. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. CONDITIONS:

15. 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 Ilqa 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.

16. 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)

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

18. 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.

19. Given the background of allegations against the petitioner, it becomes paramount to protect the members of society, detection squad 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 the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

20. The conditions mentioned above imposed by this court are to endeavor to reform

CRM-M-36461-2025

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."

21. 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."

22. 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.

23. 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.

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

25. A certified copy of this order is not required for furnishing bonds. An Advocate for the Petitioner can download the order from the Court's official web page and attest it as a true copy. If needed, the attesting officer can verify its authenticity online and use the downloaded copy to attest bonds.

26. Petition allowed in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

31.07.2025/anju rani

Whether speaking/reasoned: Yes

Whether reportable: No.