

CRM-M-37743-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37743-2025
Reserved on: 05.08.2025
Pronounced on: 22.08.2025

Sonia ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rahul Bhargava, Advocate and
Mr. Kashav Chadha, Advocate
for the petitioner.

Ms. Pooja Nayar Sharma, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
25	02.02.2025	Chhehtra, District Police Commissionerate Amritsar, Punjab	21B/29/61/85 of NDPS Act (Section 27A of NDPS Act added later on)

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 the custody certificate dated 04.08.2025 as well as para 15 of the status report, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	314	27.06.2024	21/29 of NDPS Act	City Barnala

3. The facts and allegations are taken from the reply filed by the State. On 02.02.2025 based on chance recovery, the Police seized 50 grams of heroin from the possession of co-accused Sandeep Singh and Maneesh Kumar. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973. During the custodial interrogation of one of the co-accused, he disclosed the petitioner as the supplier of the drugs; based on the disclosure statement, the police arraigned the petitioner as an accused by incorporating S. 29 of the NDPS Act.
4. 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

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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.

5. The State’s counsel opposes bail and refers to following portion of the reply, which reads as follows:-

“The name and total weight of the drug

11. That it is submitted that in this case, 50 grams of heroin was recovered from the co-accused Sandeep Singh and Maneesh Kumar and 38 grams of heroin was recovered from the co-accused Jaspreet Singh. As such total 88 grams of heroin was recovered and as per report of RTFSL Amritsar, the name of the drug is ‘Diacetylmorphine.’”

REASONING:

6. As per paragraph 11 of the reply, the name of the contraband is and its weight is 88 grams, and it constitutes an offense under the following provisions and notifications:

Substance Name	Heroin/ Chitta/ Smack/ Brown Sugar/ Diacetylmorphine
Quantity detained	88 Gram
Quantity type	Intermediate
Drug Quantity in % to upper limit of Intermediate	35.20%

Drug's Small & Commercial Qty. suggested by Committee report	
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

Specified as small & Commercial in S.2(viia) & 2(xxiii) NDPS Act, 1985		
Notification No. & dated	S.O.1055(E)	10/19/2001
-		
Sr. No.	56	

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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.

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7. It would be appropriate to refer to the evidence collected against the petition, which is taken from the reply, which reads as follows:

“3. That the deponent humbly submits that as per the official record, on 02.02.2025, the accused Sandeep Singh S/o Sukhdev Singh and Maneesh Kumar S/o Rattan Singh were apprehended from the area near bridge, Dera Baba Darshan Singh bypass, Amritsar by the police party headed by ASI Tejvir Singh, Police Station Chheharta, Amritsar as the above said accused persons upon seeing the police party had tried to turn backwards and Sandeep Singh had tried to throw one plastic bag holding in his hand. Thereafter, upon asking about the above said plastic bag holding in the hand of Sandeep Singh, both the accused Sandeep Singh and Maneesh Kumar had told that it was containing heroin and they both together sell heroin. Thereafter, upon checking the above said plastic bag, 50 grams of heroin was recovered from it, which was taken into police possession after making video thereof on 'E-Sakshya' App accordingly. The present case FIR No. 25, dated 02.02.2025, under Section 21B, 29 NDPS Act, PS Chheharta, Amritsar was registered in this respect and the above said accused Sandeep Singh and Maneesh Kumar were arrested in this case in accordance with law.

4. That the deponent humbly submits that on the next day, the above said accused Sandeep Singh and Maneesh Kumar along with parcel of the contraband were produced before the Court of jurisdictional learned Court. The proceedings under Section 52A NDPS Act were initiated and police remand of both the accused persons was granted by the learned Magistrate.

5. That the deponent humbly submits that during the course of investigation of the present case FIR No. 25, dated 02.02.2025 (supra), both the above said accused persons Sandeep Singh and Maneesh Kumar made volunteer disclosure statements dated 03.02.2025 before the Investigating Officer that they both together used to sell heroin and the drug proceed was used to be distributed between them. They both used to purchase heroin for selling from one Jaspreet Singh @ Jass S/o Avtar Singh and the above recovered 50 grams heroin was also purchased from the above said Jaspreet Singh @ Jass. Therefore, based on their disclosure statements, the above said Jaspreet Singh @Jass was also nominated as co-accused vide GD No. 45, dated 03.02.2025.

6. That the deponent humbly submits that during investigation of the present Lease FIR No. 25, dated 02.02.2025 (supra), the co-accused Jaspreet Singh was arrested on 03.02.2025 from outside of his residential house. The co-accused Jaspreet Singh was produced before the

jurisdictional learned Court on 4.2.2025 and his police remand was obtained. During investigation, the co-accused Jaspreet Singh made volunteer disclosure statement dated 4.2.2025 before the Investigating Officer that he had become an addict to consuming heroin and he also started selling heroin, which he used to purchase from one person name Gopi near village Basarke. The above said Sandeep Singh and Maneesh Kumar, who are also addict to consuming heroin, used to purchase heroin from the above said co-accused Jaspreet Singh. It was also disclosed by the co-accused Jaspreet Singh that he had kept concealed 38 grams of heroin, one electronic weighing scale and drug money in his residential house, which he can get recovered. Therefore, based on the disclosure statement and identification made by the co-accused Jaspreet Singh, 38grams of heroin, one electronic weighing scale and drug money thdian currency notes of 1800/- were recovered from his residential house and the videography thereof was made on E-Sakshay Application in accordance with law and the same were taken into police possession in accordance with law.

7. That the deponent humbly submits that on the next day i.e. on 5.2.2025. the co-accused Jaspreet Singh along with parcel of the contraband was produced before the jurisdictional learned Court. The proceedings under Section 52A NDPS Act were initiated and police remand of the co-accused Jaspreet Singh was granted by the learned Magistrate. During police remand, the co-accused Jaspreet Singh made volunteer disclosure statement dated 5.2.2025 before the Investigating Officer that he used to purchase heroin from one Gurpreet Singh @ Gopi S/o Davinder Singh R/o Arjun Nagar Batha, Chheharta, Amritsar, which he used to sell in retail. He had purchased 40 grams of heroin from the above said Gurpreet Singh @ Gopi, out of which 02 grams of heroin was sold and remaining 38 grams of heroin, drug money and weighing scale were recovered from him. Therefore, the above said Gurpreet Singh @ Gopi was also nominated as co-accused vide GD No. 34 dated 5.2.2025 and owing to recovery of drug money, the offence under Section 27A NDPS Act was also added in the present case. After completion of police remand, the co-accused Jaspreet Singh was again produced before the jurisdictional learned Court and was sent to judicial custody.

8. That the deponent humbly submits that during the course of inves of the present case FIR No. 25, dated 02.02.2025 (supra), the above said co-accused Gurpreet Singh @ Gopi was arrested on 15.05.2025. He was subjected to investigation, during which Gurpreet Singh @ Gopi made volunteer disclosure statement before the Investigating Officer that he is

addict to consuming heroin; hence for fulfillment of his need of drug, he started selling heroin, which he used to purchase from one Lakhwinder Singh @ Sonu S/o Kuldeep Singh and his partner i.e. present petitioner Sonia W/o Sandeep Singh. He had come in contact of the co-accused Jaspreet Singh who also was selling heroin and the co-accused Jaspreet Singh used to purchase heroin from him for selling further. During last week of January 2025, the co-accused Jaspreet Singh had purchased 40 grams of heroin from him. After arrest of the co-accused Jaspreet Singh, he (Gurpreet Singh) had been selling heroin stealthily. Therefore, the above said Lakhwinder Singh @ Sonu and present petitioner Sonia were also nominated as co-accused vide GD No. 37, dated 15.05.2025. The disclosure memo of Gurpreet Singh @ Gopi is annexed herewith as Annexure R-1/T for kind perusal of this Hon'ble Court.

9. That the deponent humbly submits that during the course of investigation of the present case FIR No. 25, dated 02.02.2025 (supra), the above said co-accused Lakhwinder Singh @ Sonu and present petitioner Sonia were arrested on 15.5.2025 and were subjected to investigation, during which they admitted that they both were involved in selling heroin, which they used to purchase an unknown persons of village Basarke, Amritsar and above said Singh @ Gopi used to purchase heroin from them. They both were before the jurisdictional learned Court and were sent to judicial custody. The disclosure statement made by the present petitioner Sonia are annexed herewith as Annexure R-2/T for kind perusal of this Hon'ble Court."

8. The quantity allegedly involved in this case is not commercial. Given this, the rigours of S. 37 of the NDPS Act do not apply in the present case.

9. Thus, the evidence collected so far consists only of disclosure statements and the petitioner's confession without discovering any facts. Such statements can be proven subject to the mandatory restrictions imposed in S. 25 & 26 of the Indian Evidence Act, 1872/ S. 23 of the BSA, 2023.

10. In *Tofan Singh v. State of Tamil Nadu*, (2021) 4 SCC 1, the majority view of a three-member bench holds as follows:

We answer the reference by stating:

(i) That the officers who are invested with powers under section 53 of the NDPS Act are "police officers" within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.

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(ii) That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act.

11. The status report filed by the police reveals that the investigator arraigned the petitioner as an accused based on the disclosure statement of the co-accused. No other evidence is collected at this stage to connect the petitioner with the main accused. Thus, there is no justification to deny bail. Consequently, the petitioner has satisfied the first rider of section 37 of the NDPS Act. Regarding the second rider of S. 37, this court will put very stringent conditions in this order to ensure that the petitioner does not repeat the offense.

12. Per the custody certificate dated 04.08.2025 the petitioner’s total custody in this FIR is 02 months & 17 days.

13. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

14. Given the penal provisions invoked, the legal admissibility of evidence collected against the petition, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

15. Without commenting on the case's merits, in the facts and circumstances unique and peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

CONDITIONS

16. 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/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.

17. 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)	

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

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19. 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.

20. 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 society; it would also restrain the accused from influencing the witnesses and repeating the offense.

21. 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 Hon'ble Supreme Court holds 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."

22. In *Md. Tajiur Rahaman v. The State of West Bengal*, decided on 08-Nov-2024, SLP (Crl) 12225-2024, 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."

23. 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

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petitioner's behalf by not repeating the offence or indulging in any crime, it shall be desirable to impose the following additional condition.

24. 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.

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

26. 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."

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

(ANOOP CHITKARA)
JUDGE

22.08.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.