

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

CRM-M-36977-2025
Reserved on: 01.10.2025
Pronounced on: 31.10.2025

Ravi Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CRM-M-45440-2025

Vikramjeet Singh @ Jashan ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ashok Kumar Khunger, Advocate
for the petitioner in CRM-M-36977-2025.

Mr. Jaswinder Singh Grewal, Advocate
for the petitioner in CRM-M-45440-2025.

Mr. J.S.Thind, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
053	15.05.2024	Khuian Sarwar, District Fazilka	15(c)/29 of NDPS Act

1. Vide this common order, CRM-M No.36977 of 2025 and CRM-M No.45440 of 2025 are being disposed of. For brevity, the facts are being taken from CRM-M No.36977 of 2025.
2. The petitioners incarcerated in the FIR captioned above have come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
3. Per Note (para 2) of the bail application (CRM-M-36977-2025), the petitioner has been involved in another case under the NDPS Act, however, as per para 3(E) of the status report, he has no criminal antecedents.
4. Per para 11 of the bail application (CRM-M-45440-2025), the petitioner has no criminal antecedents, however, as per para 4(E) of the status report, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	27	14.03.2025	22/61/85 of NDPS Act	Khuikhera, Fazilka

5. The facts and allegations are taken from the reply filed by the State. On May 14, 2024, based on chance recovery, the Police seized 70 kgs of poppy husk from a vehicle driven by the co-accused Utambeer accompanied by another co-accused Navjot Singh. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973.

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 petitioners and their family.

7. The petitioner's counsel submits that the petitioners would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioners repeat 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 petitioners shall have no objection.

8. The State's counsel opposes bail and refers to the reply(ies) filed in both the cases.

9. It shall be relevant to refer to following paragraphs of the reply filed in CRM-M-36977-2025, which reads as follows:

“3(iv) During the investigation, Ravi Kumar son of Kashmir Singh (present petitioner), Paramjit Singh @ Pamma son of Amarjeet Singh and Vikramjeet Singh @ Jassan son of Prem Singh were also found involved in the commission of crime of the FIR in question, so the names of the said persons were nominated in the FIR in question vide DDR No.52 dated 11.07.2024.
(vi) A. The name and total weight of the drug- 70 Kgs. Poppy husk.
B The evidence based on which the petitioner was arraigned as an accused. On questioning of the accused Navjot Singh and Utambeer Singh, the petitioner was found involved in the commission of crime.
D. The role of the petitioner. The petitioner and co-accused brought the recovered contraband. The petitioner-accused, Vikramjeet Singh @ Jassan and Paramjit Singh loaded the recovered contraband in the offending vehicle. The recovered contraband belonged to the petitioner and co-accused. The petitioner actively participated in the commission of crime.”

10. As per paragraph 3(vi) of the reply filed in CRM-M-36977-2025, the contraband is 70 kg of poppy husk.

11. Dealing in 70 kg of poppy husk in contravention of the NDPS Act, 1985,

constitutes an offense under the following provisions and notifications:

Substance Name	Poppy straw
Quantity detained	70 Kg
Punishable U/s	S.15(c) of NDPS Act, 1985
Quantity type	Commercial
Drug Quantity in % to upper limit of Intermediate	140.00%

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)

<i>Specified as small & Commercial in S.2(viia) & 2(xxiii) NDPS Act, 1985</i>		
Notification No. & dated	S.O.1055(E)	10/19/2001
Sr. No.	110	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	Poppy straw	
Other non-proprietary name	*****	
Chemical Name	*****	
Small Quantity	< 1000 Gram (i.e. equivalent to 1 Kg)	
Commercial Quantity	> 50000 Gram (i.e. equivalent to 50 Kg)	

Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) & 2(xxiii) NDPS Act, 1985		
Notification No. & dated	S.15 & S.2(xviii) NDPS Act, S.O.821(E)	11/14/1985

Sr. No.	S.2(xviii)
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	*****

Other non-proprietary name	*****
Chemical Name	S.2(xviii) “poppy straw” means all parts (except the seeds) of the opium poppy after harvesting whether in their original form or cut, crushed or powdered and whether or not juice has been extracted therefrom; S. 2(viiiib)] “illicit traffic”, in relation to narcotic drugs and psychotropic substances, means— (i) cultivating any coca plant or gathering any portion of coca plant; (ii) cultivating the opium poppy or any cannabis plant; (iii) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transshipment, of narcotic drugs or psychotropic substances; S.2 (xvii) “opium poppy” means— (a) the plant of the species <i>Papaver somniferum</i> L; and (b) the plant of any other species of <i>Papaver</i> from which opium or any phenanthrene alkaloid can be extracted and which the Central Government may, by notification in the Official Gazette, declare to be opium poppy for the purposes of this Act; S2. (xviii) “poppy straw” means all parts (except the seeds) of the opium poppy after harvesting whether in their original form or cut, crushed or powdered and whether or not juice has been extracted therefrom;

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

13. It would be appropriate to refer to the evidence collected against the petitioners, which is taken from the reply filed in both the cases, which reads as follows:

“C. The evidence against the petitioner.

There is sufficient evidence against the petitioner and co-accused to prove their guilt including the confession memo of the petitioner-accused.”

14. Thus, the evidence collected so far consists of disclosure statements. Such statements can be proven subject to the mandatory restrictions imposed in S. 25 & 26 of the Indian Evidence Act, 1872/ S. 23 of BSA, 2023.

15. 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.

(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.

16. The status report filed by the police reveals that the investigator arraigned the petitioners as an accused based on the disclosure statements. No other evidence is collected at this stage to connect the petitioners with the main accused. Thus, there is no justification to deny bail. Consequently, the petitioners have 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 petitioners do not repeat the offense.

17. 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.

[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.

18. As per paragraph 4 of the status report, petitioner (in CRM-M-36977-2025) has been in custody since 26.03.2025 and his custody is more than six months. As per

paragraph 5 of the bail application (CRM-M-45440-2025), the petitioner has been in custody since 14.06.2024. Per the custody certificate dated 30.09.2025, the petitioner's total custody in this FIR is 05 months and 11 days.

19. Given the penal provisions invoked vis-à-vis pre-trial custody, 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.

20. The investigation indicates that the petitioners are 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.

21. The evidence collected might be, prima facie, sufficient to launch prosecution or even to frame the charges; however, it is insufficient for denying bail.

22. Given the penal provisions invoked, the legal admissibility of evidence collected against the petitioner, 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.

23. 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 petitioners make a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

24. Given the above, provided the petitioners are not required in any other case, the petitioners 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, with or without sureties, with a maximum bond amount not to exceed INR 25,000.

25. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, the surety is capable of producing the accused. However, instead of surety, the petitioners may provide a fixed deposit of INR 25,000/-, with a clause that the interest shall not be accumulated in FD, either drawn from a State-owned bank or any bank listed on the National Stock Exchange and/or Bombay Stock Exchange, in favour of the "Chief Judicial Magistrate" of the concerned Sessions Division; or a fixed deposit made in the name of the petitioners, with similar terms and with endorsement from the banker stating that the FD shall not be encumbered or redeemed without the permission of the concerned trial Court, or until the surety bond has been discharged.

26. While furnishing a personal bond, the petitioners 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)	

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

28. 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.

29. Given the background of allegations against the petitioners, it becomes paramount to protect the detection squad, 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 petitioners 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 petitioners 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.

30. 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.”

31. 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 petitioners are found involved in such like offence in future, the concession of bail granted to him today will liable to be withdrawn and the petitioners are bound to face the necessary consequences.”

32. The significant consideration for granting bail is that the Court aims to give the petitioners another chance to course-correct, reform, and reintegrate into the community as an ideal citizen. To ensure that the petitioners also abide 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.

33. This bail is conditional, with the foundational condition being that if the petitioners repeat 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.

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

35. It is clarified that this bail order shall not be considered as a blanket bail order in any other matter and is only limited to granting bail in the FIR mentioned above.

36. 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.”

37. **Petition(s) allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

31.10.2025
Jyoti Sharma

Whether speaking/reasoned: Yes

Whether reportable: No.