

211

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42094-2024

Reserved on : 11.07.2025

Pronounced on: 18.07.2025

MAJOR SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Puri, Advocate for the petitioner.

Mr. Jasdev Singh Thind, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
164	22.06.2023	Patran, District Patiala	22/61/85 of NDPS Act

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 paragraph 06 of the bail application and the reply, petitioner has no criminal antecedents.
3. The facts and allegations are taken from the reply filed by the State. On 22.06.2023, when the police officials were on patrolling duty, they noticed one person standing on the outer ring road of the village, carrying a heavy black color plastic bag, who on seeing the police, tried to turn away which raised suspicion that he was carrying some contraband. Upon search of the said bag, police recovered 1150 tablets of Tramadol Hydrochloride and he was arrested. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and BNSS, 2023.
4. The petitioner's counsel seeks bail on the grounds of prolonged pretrial custody.
5. Counsel for the petitioner submits that the petitioner is in custody since more than 02 years and he is not involved in any other case under NDPS Act.
6. 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 Special Judge or Sessions 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 and refers to the reply.
8. It would be appropriate to refer to the following portions of the reply, which reads as follows:

"D. THE ROLE OF THE PETITIONER

The role of the accused/petitioner Major Singh is that of a carrier and possessor of a commercial quantity of Tramadol Hydrochloride tablets. He was caught red-handed with 1150 tablets (434.7 grams) of Tramadol Hydrochloride, which constitutes a commercial quantity under the NDPS Act. His attempt to flee upon noticing the police patrol party clearly indicates his guilty mind. Furthermore, his dope test conducted on 24.06.2023 revealed that he tested positive for Morphine, Benzodiazepines and Tramadol, which establishes that he is not merely a carrier but also a consumer of these controlled substances. The accused/petitioner is thus directly involved in drug trafficking and consumption, which poses a serious threat of public health and safety.

REASONING:

9. The weight and name of drug is 1150 tablets (378mg x 1150) 434.7 grams and it contains Tramadol Hydrochloride.
10. 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 petitioner must satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act.
11. The petitioner is entitled to bail because for the same drug, and when the quantity involved was either more or closer to the quantity seized in the present FIR, the Hon'ble Supreme Court has granted bail on prolonged custody in the following judicial precedent:
12. In *Ajay Khatri v. The State of Rajasthan*, decided on 20-03-2025, SLP (Crl) No. 1228-2025, the Hon'ble Supreme Court holds,

The case of the prosecution is that 6600 Alprazolam Tablets weighing 818.4 grams have been recovered from his possession. He has already undergone more than one year in jail.

Considering the period of incarceration of the petitioner, we are of the opinion that a case of bail is made out for the petitioner and therefore, the prayer for bail is allowed.
13. Per the custody certificate dated 10.07.2025, the petitioner has been in custody for 02 years and 16 days in this FIR.
14. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act¹.
15. Following the judicial precedent mentioned above, 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

¹Supreme Court of India, in *Rabi Prakash v. The State of Odisha*, SLP (Crl) 4169-2023, Para 4, decided on 13 July 2023

stage, subject to the terms and conditions of this order. However, this order shall take effect from the time it is uploaded to 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 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.

17. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

• .	• AADHAR number
• .	• Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.
• .	• Mobile number (If available)
• .	• E-Mail id (If available)

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

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, detention 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.

22. 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."

23. 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."

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 Special Judge/ Sessions 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. 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.

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

18.07.2025
renubala

(ANOOP CHITKARA)
JUDGE

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