

CRM-M-39827-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39827-2025
Reserved on: 01.09.2025
Pronounced on: 29.09.2025

Harbans Singh alias Labbu Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rahul Verma, Advocate
for the petitioner.

Ms. Pooja Nayar Sharma, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
144	01.07.2025	City Sunam, District Sangrur	21/29/61 of NDPS Act 1985

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. Per paragraph 9 of the bail petition as well as para 6(F) of the reply, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	94	14.07.2016	61/1/14 of Excise Act	City Dhuri
2	42	25.05.2016	61/1/14 of Excise Act	Sherpur
3	46	08.05.2017	15 of NDPS Act	City Dhuri
4	80	24.06.2021	21/29 of NDPS Act	City Dhuri

3. The facts and allegations are taken from para 6 of the reply filed by the State, which reads as follows:

“ That pursuant to the said order, it is submitted that the brief facts of case/FIR No. 144dated 01.07.2025 u/s 21,29NDPSAct, P.S., City Sunam are that on 01.07.2025, ASI Paramjit Singh, P.S., City Sunam alongwith Police party in a Govt vehicle in connection with patrolling and checking of suspected persons was present at Anaj Mandi Sunam. Then at about 5:15 PM, a special informant gave information to him that Lakhwinder Singh alias

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Binder, son of Hari Singh alias Gheecha, resident of Stadium Road, Indira Basti, Sunam, is in the business of supplying heroin. He has brought a large quantity of heroin from Abohar side today and that Lakhwinder Singh alias Binder has to Supply some heroin to one of his customers in Sunam and that Lakhwinder Singh alias Binder is standing on Mool Chand road towards railway line, Maya garden colony ahead canal bridge Sunam. If a raid be conducted then he can be apprehended along with a large quantity of heroin. That Lakhwinder Singh @ Binder has also supplied some of this heroin to Labhu Singh, son of Milkhi Ram, resident of Bajigar Basti, Dhuri. The information received from the informant was true and reliable. The act of above Lakhwinder Singh @ Binder of keeping in his possession, purchasing and supplying the heroin to Labhu Singh, son of Milkhi Ram, resident of Bajigar Basti, Dhuri fulfills the definition of offence under section 21,29 NDPS Act. Therefore, ASI Paramjit Singh by sending a ruqa to the Police Station, got registered the present FIR against abovesaid Lakhwinder Singh @ Binder son of Hari Singh, resident of Stadium Road, Indira Basti Sunam and Labhu Singh son of Milkhi Ram resident of Bajigar Basti Dhuri, District Sangrur. ASI Paramjit Singh prepared a report under section 42(2) of NDPS Act, at the spot and sent to the Senior Officer and then left for Maya Colony, Sunam for conducting raid and recovery.”

4. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and BNSS 2023.

5. Based on prior information received by the Police, the petitioner was arraigned as an accused. Apprehending arrest, he filed for anticipatory bail from the Sessions Court, which denied him bail. Feeling aggrieved, he has invoked the concurrent jurisdiction of this Court under S. 482 BNSS, 2023.

6. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the 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 and refers to the reply.

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8. It would be appropriate to refer to the following portions of the reply, which read as follows:

“THE NAME AND TOTAL WEIGHT OF THE DRUG

160 gram Heroin was recovered from the co-accused Lakhwinder Singh @ Binder. However. Recovery of 70 gram heroin sold by co-accused to him is yet to be recovered from the petitioner.

B. THE EVIDENCE BASED ON WHICH THE PETITIONER WAS ARRAIGNED AS ACCUSED.

The present FIR was registered by name against the accused/petitioner Labhu (later on verified as Harbans Singh @ Labhu) and his co-accused Lakhwinder Singh @ Binder on the basis of a secret information received by ASI Paramjit Singh Investigating Officer of the

During investigation, it was proved that co-accused Lakhwinder Singh @ Binder used to bring heroin from a person of Abohar and give it to the present petitioner. On 31.06.2025, Lakhwinder Singh brought 230 gram heroin from that person and out of which, he sold 70 gram heroin to Harbans Singh @ Labhu (present petitioner).

C. THE EVIDENCE AGAINST THE PETITIONER.

i). The present FIR was registered against the present petitioner and his co-accused Lakhwinder Singh @ Binder on the basis of a secret information received by ASI Paramjit Singh Investigating Officer of the case.

ii) During investigation, accused Lakhwinder Singh @Binder was apprehended and 160 grams of heroin was recovered from her conscious possession. During interrogation, accused Lakhwinder Singh @ Binder disclosed that he used to bring heroin from a person of Abohar at the rate 1400/- per gram and give it to Labhu son of Milkhi resident of Dhuri, (who is his father-in-law in relation). Yesterday i.e. 31.07.2025 he brought 230 gram heroin from that person of Abohar for Rs. 3,22,000/-and out of which, he sold 70 gram heroin to above said Labhu and received the due amount from him and he was going to sell the remaining heroin to the customers, but he was apprehended along-with heroin and drug money.”

6(D) THE ROLE OF THE PETITIONER.

The present FIR was registered against the present petitioner and his co-accused Lakhwinder Singh @ Binder on the basis of a secret information

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received by ASIParamjit Singh Investigating Officer of the case. During investigation, accused Lakhwinder Singh @Binder was apprehended and 160 grams of heroin was recovered from her conscious possession and he was arrested at the spot on 01.07.2025. During interrogation, accused Lakhwinder Singh @ Binder disclosed that he used to bring heroin from a person of Abohar at the rate 1400/- per gram and give it to Labhu son of Milkhi resident of Dhuri, (who is his father-in-law in relation). Yesterday i.e. 31.07.2025 he brought 230 gram heroin from that person of Abohar for Rs. 3,22,000/- and out of which, he sold 70 gram heroin to above said Labhu and received the due amount from him and he was going to sell the remaining heroin to the customers, but he was apprehended along-with heroin and drug money. Thus, the present petitioner Harbans Singh @ Labhu has played a specific role in the drug trafficking.”

REASONING:

9. As per paragraph 6 of the reply, the name of the contraband is heroin and its weight is 160 grams.
10. Dealing in 160 grams of heroin in contravention of the NDPS Act, 1985, constitutes an offense under the following provisions and notifications:

Substance Name	Heroin/ Chitta/ Smack/ Brown Sugar/ Diacetylmorphine
Quantity detained	160 Gram
Punishable U/s	S.21(b) of NDPS Act, 1985
Quantity type	Intermediate
Drug Quantity in % to upper limit of Intermediate	64.00%

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.	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.

11. Given this, the rigors of S. 37 of the NDPS Act do not apply in the present case.

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12. Section 2 (vii-a) of the NDPS Act defines commercial quantity as greater than the quantity specified in the schedule. Section 2 (xxiii-a) defines a small quantity as a quantity less than the quantity specified in the table of the NDPS Act. The remaining quantity falls in an undefined category, generally called an intermediate quantity. All sections in the NDPS Act specify an offence and mention the minimum and maximum sentence, depending upon the quantity of the substance. The commercial quantity mandates a minimum sentence of ten years of imprisonment and a minimum fine of Rupees One hundred thousand, and bail is subject to the riders mandated in S. 37 of the NDPS Act. When the quantity is less than commercial, the restrictions of Section 37 of the NDPS Act will not attract, and the factors for bail become similar to the offence regular statutes.

13. In *Baldev Singh v. State of Punjab*, SLP (Crl). 2364-2025, decided on 09-07-2025, the Hon'ble Supreme Court holds,

The petitioner before this Court is seeking an anticipatory bail, which was declined by the High Court by an order dated 16.01.2025. The petitioner is an accused for the offences punishable under Section 15B of the NDPS Act and is facing investigation. Vide order dated 09.04.2025, interim protection was granted to the petitioner, subject to cooperation in the investigation. Having considered the entire facts of the matter and the statement made by Ms. Nupur Kumar, learned counsel for the State, we do not think that this is a case where custodial interrogation of the petitioner is required. Hence, the order dated 09.04.2025 is made absolute.

14. Except the disclosure statement, there is no other evidence against the petitioner, as such, no ground is made out to deny the bail. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

15. The law of bail, like any other branch of law, has its own philosophy, and occupies an important place in the administration of justice and the concept of bail emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal.¹ Personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.² Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the curial power to negate it is a great trust exercisable, not casually, but judicially with lively concern for the cost to the

¹ Supreme Court of India in *Vaman Narain Ghiya v. state of Rajasthan*, [E-SCR] ; [2008] 17 SCR 369, Para 16, decided on 12.12.2008.

² Supreme Court of India in *Siddharam Satlingappa Mhetre v. State of Maharashtra*, SC 2J [E-SCR], Paragraph 127, decided on 02.12.2010.

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individual and the community.³

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

17. Given the penal provisions invoked, the legal admissibility of evidence collected against the petitioner, quantity recovered and 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 custodial interrogation or pre-trial incarceration.

18. Given the above, 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 anticipatory bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

19. 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 Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

20. 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)	

21. The bail order is subject to the petitioner's complying with the following terms.

22. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

23. The petitioner shall abide by all statutory bond conditions and appear before the

³ Supreme Court of India in *Babu Singh & ors v. State of UP*, [E-SCR] P. 777, decided on 31.01.1978.

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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.

24. Given the background of allegations against the petitioner, 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 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 the uploading of this order on the official webpage of this Court 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 it is 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.

25. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

26. 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."

27. This bail is conditional, with the foundational condition being 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, or violates S. 19, or 24, or 27-A of the NDPS Act, the State shall file an application to

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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.

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

29. 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.

30. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Appellant-Accused can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

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

(ANOOP CHITKARA)
JUDGE

29.09.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.