



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

216

CRM-M-40096-2025

Date of decision: 01.08.2025

Hardeep Singh @ Nikku

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Simran Atwal, Advocate
and Mr. Maan Akashdeep Singh, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.0082 dated 08.10.2024 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Aur, District S.B.S. Nagar.
2. As per the prosecution story, 30 intoxicating tablets were recovered from a polythene bag thrown by Hardeep Singh @ Nikku (petitioner herein) near Sati Mata Mandir Got Ladhar, while he was accompanied by another co-accused Pawan Kumar. The Forensic Science Laboratory report confirmed that each tablet weighs an average of 92 mg and contains Etizolam, with a total weight of 2.76 grams. This quantity qualifies as a 'commercial quantity' under the NDPS Act, hence, the FIR (supra) was registered.



3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the FIR (supra) and allegedly 30 tablets of Etizolam has been recovered from him. The alleged intoxicant tablets are 2.76 grams, which is marginally higher than the commercial quantity i.e. 2.50 grams. The petitioner is behind the bars since 08.10.2024. He has placed reliance upon the judgment of this Court dated 09.07.2025, passed in ***CRM-M No.24404 of 2025***, titled as ***“Pawan Kumar vs State of Punjab”***, where a similar issue was thoroughly examined and the petitioner was granted the concession of regular bail.

4. Learned counsel for the petitioner further submits that vide Notification bearing No. S.O.1276(E) dated 23.03.2021, issued by the Central Government, Etizolam was brought under the ambit of the NDPS Act. It was specified that 0.05g would constitute to be small quantity while 2.5g would be the commercial quantity in this regard. However, a perusal of the Pre-Review Report presented on Etizolam by the World Health Organisation’s Expert Committee on Drug Dependence, at its 37th Meeting (16-20 November, 2015), would indicate that Etizolam is comparable to Alprazolam in its nature and effects, both being derivatives of benzodiazepine. Based on its chemical structure, it is also unlikely to convert Etizolam into a different controlled substance. In fact, the report concludes that nature of possible abuse of Etizolam does not warrant international control. Moreover, there is also a scarcity of empirical data concluding overdose of



Etizolam can result in death. While two doses of 0.5mg Etizolam per day would have the same impact as two doses of 0.5mg Alprazolam, the huge difference in the notified commercial quantities for the same is rather curious.

Controlled Substance	Small Quantity	Commercial Quantity
Alprazolam	5g	100g
Etizolam	0.05g	2.5g

5. In spite of the fact that both the notified substances are prescribed to cure the same ailments and have a similar effect, with minor difference in potency, the commercial quantity notified by the Central Government for Etizolam (2.5g) is even lesser than small quantity prescribed for Alprazolam (5 g). There is no data to even remotely suggest that the potency of Etizolam is 40 times that of Alprazolam.

6. With that in view, a study of Section 22 of the NDPS Act is called for-

22. Punishment for contravention in relation to psychotropic substances.—

Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses any psychotropic substance shall be punishable,--

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to 2[one year], or with fine which may extend to ten thousand rupees, or with both;



(b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine .

*(c) where the contravention involves **commercial quantity**, 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.

7. The mandatory minimum punishment for cases involving commercial quantities is 10 years, which may be extended to 20 years. In view of the nature of Etizolam, such stringent punishment does not satisfy the test of proportionality. The impact of Etizolam and the meagre amount of commercial quantity i.e. 2.5g notified by the Central Government does not align with the gravity of the offence alleged.

8. Learned counsel for the petitioner lastly submits that there are total 10 prosecution witnesses cited in the list of witnesses, out of which, 04 PWs have been given up and 03 PWs have been examined till date and the trial is likely to take long time in conclusion.

9. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that complicity of the petitioner is duly proved. Further, the recovery falls



within the ambit of commercial quantity and therefore, grant of concession of bail would be barred by Section 37 of the NDPS Act, however, he could not controvert the fact that out of 10 PWs, only 03 PWs have been examined till date and 04 PWs have been given up.

10. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, this Court finds force in the arguments put forth by the learned counsel for the petitioner.

11. It transpires that the recovered contraband was analysed by the FSL and it was found to be containing the salt – Etizolam. The total weight of the tablets was assessed to be 2.76 grams. Further still, while deciding a regular bail petition in a case involving 7.2g of Etizolam, a Co-ordinate bench of this Court in ***Baljit Singh @ Mintu @ Baljit Gill vs. State of Punjab*** in ***CRM-M-15588 of 2024*** decided on 30.08.2024, speaking through Justice Anoop Chitkara, has opined as follows:

“26. Even in the present case, the quantity of a manufactured drug i.e. Etizolam tablets and it is not a hard drug like heroin, charas, opium or other synthetic drugs, thus petitioner is entitled to bail given the ratio of Chitra Basu’s case(supra).”

12. Adverting to the matter at hand, the petitioner has allegedly been found in possession of 30 tablets of Etizolam, weighing 2.76 grams, which is marginally higher than the commercial quantity prescribed under the NDPS Act. The recovered quantity exceeds the commercial quantity for the said salt only by 0.26 grams. In cases where



the recovery only marginally breaches the threshold for commercial quantity of the alleged contraband, this Court has found it proper to grant regular bail. Reference in this regard can be made to the judgments rendered by this Court in *Davinder Singh alias Baba vs. State of Punjab* in CRM-M-64821-2023 decided on 25.01.2024, *Gurmeet Singh vs. State of Punjab* in CRM-M-1007-2024 decided on 15.01.2024, *Ranjti Singh @ Ranjit Kumar vs. State of Punjab* in CRM-M-57185-2022 decided on 10.01.2023, *Jagtar Singh vs. State of Punjab* in CRM-M-21460-2022 decided on 08.02.2023, *Harjeet Singh alias Sonu vs. State of Punjab* in CRM-M-8242-2023 decided on 15.01.2024, *Jang Kanwar vs. State of Punjab* in CRM-M-53415-2021 decided on 19.01.2022.

13. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

14. In view of the above discussions, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Hardeep Singh @ Nikku, is ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.



15. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

01.08.2025
yakub

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