



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

212

CRM-M-42624-2025

Date of decision: 12.08.2025

Reena Kumari

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Sandeep Godara, Advocate for
Mr. APS Rehan, Advocate for the petitioner.

Mr. Kamalpreet Bawa, DAG, Punjab.

AARADHNA SAWHNEY, J.(ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, who is an accused in case bearing FIR No.245 dated 06.12.2023 registered under Section 22 of the NDPS Act, 1985 (Section 29 of the NDPS added subsequently), has prayed for grant of bail.

2. Relevant facts emerging from the documents on record be noticed hereinbelow:-

On 06.12.2023 based on a chance recovery, police officials of Police Station Mukerian, seized 110 grams of intoxicating powder thrown by petitioner on the road. After completing with the necessary statutory formalities, a formal case vide FIR No. 245 dated 06.12.2023 under Section 22 of the NDPS Act, 1985 was registered.

3. Petitioner was granted the concession of interim bail by the learned Special Court, Hoshiarpur but on presentation of challan, she was taken into custody as the intoxicant powder recovered from her was found to be having salt 'Alprazolam' (110 grams). Thereafter, her application for grant of regular bail which was dismissed by the learned Special Court,



Hoshiarpur vide order dated 13.03.2025.

4. This is the second bail application of the petitioner before this Court, as the first application filed by her vide CRM-M-17394-2025 was dismissed as withdrawn in terms of order dated 08.04.2025.

5. Learned counsel submitted that petitioner has been falsely implicated in the present case, has been in custody since 20.07.2024 and that there is no other case/FIR against her except the present one. Thus, according to learned counsel further pre-trial incarceration of the petitioner would be totally unjustified, moreso when the completion of trial is likely to take some time.

6. Learned State counsel, on the other hand, opposed the petition on the ground that contraband recovered from petitioner contained salt 'Alprazolam' (110 grams), which falls in Commercial Quantity. Custody certificate was also placed on record in support of submission that past antecedents of petitioner are far from satisfactory; she being involved in 5 cases of similar nature (FIR No.63/21 dated 27.08.2021, under Section 21-B,/29/61/85 NDPS PS Purana Shala, FIR No.184/21 dated 18.11.2021 under Section 21 NDPS P.S. Indaura, FIR No.308 of 2018 P.S. Indaura, FIR No.143 of 2019 P.S. Indaura and FIR No. 238 of 2016 P.S. Indaura). It was thus prayed that petitioner is not entitled to grant of bail.

7. Heard. At the outset, it needs to be mentioned that in para 7 of the present petition, a specific averment has been made by petitioner that apart from the present FIR, no other criminal proceedings are pending against her. Custody Certificate, referred to above, has falsified this plea, for as many as 5 cases of NDPS Act are pending against petitioner. It is, thus, evident that petitioner has concealed the material facts of being involved in



several cases of NDPS Act, meaning thereby she is a habitual offender.

Concealment of relevant facts, itself disentitles petitioner for grant of bail.

8. It has been consistently held by the Hon'ble Supreme Court that in NDPS cases where the offence is punishable with minimum sentence of 10 years, the accused shall not generally be released on bail. Negation of bail, in such like cases, is the rule and its grant is an exception. A bare perusal of Section 37 of the NDPS Act, leaves no doubt that before granting the concession of bail, the Court, apart from giving an opportunity to the Public Prosecutor has to record a finding that there are reasonable grounds for believing that the accused is not guilty of an offence and that he/she is not likely to commit any offence while on bail.

Hon'ble the Supreme Court in ***State of M.P. vs. Kajad, (2001) 7 SCC 673***, has held as under:-

“A perusal of Section 37 of the Act leaves no doubt in the mind of the court that a person accused of an offence, punishable for a term of imprisonment of five years or more, shall generally be not released on bail. Negation of bail is the rule and its grant an exception under sub-clause (ii) of clause (b) of Section 37(1). For granting the bail the court must, on the basis of the record produced before it, be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offences with which he is charged and further that he is not likely to commit any offence while on bail. It has further to be noticed that the conditions for granting the bail, specified in clause (b) of sub- section (1) of Section 37 are in addition to the limitations provided under the Code of Criminal Procedure or any other law for the time being in force regulating the grant of bail. Liberal approach in the matter of bail under the Act is uncalled for.”

Similarly, in ***NCB vs. Mohit Aggarwal, (2022) 18 SCC 374***, the



Hon'ble Supreme Court has held as under:-

“The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the NDPS Act.”

9. No submission was raised by learned counsel for petitioner prompting this Court to arrive at a conclusion that there are reasonable grounds to believe that petitioner is not guilty of the offence and that mandatory statutory requirements of the Act were not complied with. Further, the fact that she (petitioner) is involved as many as 5 cases of NDPS is also indicative of the fact that she is likely to commit such an offence if extended the concession of bail.

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

11. Petition dismissed.

12. Pending application, if any, also stands disposed of.

(AARADHNA SAWHNEY)
JUDGE

12.08.2025

Hemant

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