IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2 **CRM-M-44376-2025**
Reserved on : 21.08.2025
Pronounced on : 25.08.2025

Kuldeep Singh @Gyani

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present: Mr. Manjinder Singh Saini, Advocate for the petitioner.

Mr. Rohit Bansal, Sr. DAG Punjab.

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SURYA PARTAP SINGH, J.

1. This is a first petition filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), seeking for regular bail in a case arising out of FIR No.25 dated 21.03.2025 under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as 'NDPS'), Police Station Mehtiana, District Hoshiarpur. The applications for bail filed by the petitioner before the Court of learned Special Judge, Hoshiarpur has been dismissed vide orders dated 23.04.2025 and 23.07.2025 respectively.

2. Succinctly the facts projected by the prosecution are that, the FIR of this case came into being on 21.03.2025 when a police party headed by ASI Gulshan Kumar was on patrolling duty at Hadta Bridge. There they spotted a person who when noticed a police party on his way ahead, behaved abnormally, got perplexed and tried to sneak away in a haste manner. On the

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basis of suspicion, when he was intercepted and search of his person was conducted, he was found in the possession of 35 gms of intoxicating powder. According to the prosecution, the abovesaid powder was Tramadol Hydrochloride.

3. Heard.

4. It has been argued by learned counsel for the petitioner that the petitioner is innocent and that he has already suffered sufficient incarceration for being in custody for a period of almost 5 months. According to the learned counsel for the petitioner, although the petitioner has been prosecuted for the similar offences earlier also, but he has been afforded the benefit of bail in all those cases. In addition to above, it has also been argued by learned counsel for the petitioner that the quantity allegedly recovered from the possession of accused is far below the minimum threshold of commercial quantity, as against the prescribed limit of commercial quantity of 250 gms, 35 gms has been allegedly recovered from the possession of petitioner. According to the learned counsel for the petitioner, the contents of the FIR in itself are reflective of the fact that necessary safeguards prescribed under the law for the protection of the petitioner, with regard to search of his person, have not been taken in the present case.

5. In view of abovementioned prevailing circumstances, learned counsel for the petitioner has sought the benefit of bail for the petitioner.

6. The learned State Counsel, while controverting the abovementioned arguments, argued that the petitioner is a habitual offender

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and the present prosecution is the 4th prosecution being faced by the petitioner. As per learned State Counsel on last 3 occasions has misused the concession of bail and indulge in similar activity. According to the learned State Counsel, the quantity of contraband recovered from the possession of the petitioner is a heavy quantity irrespective of the fact that it does not fall in the category of commercial quantity.

7. In view of abovementioned arguments, the learned State Counsel has come forward with a stand that present application is without merit and deserves dismissal.

8. The record has been perused carefully

9. On perusal of record, it is revealed that following are the relevant factors which need to be taken into consideration for the decision of instant application:-

a. that the quantity of contraband recovered from the possession of the petitioner is almost 14% of the minimum prescribed commercial quantity i.e. 35 gms against 250 gms;

b. that the petitioner has already suffered sufficient incarceration for being in custody for a period of 4 months;

c. that nothing is left to be recovered from the possession of petitioner;

d. that there are certain arguable points with regard to manner in which search of the petitioner, and investigation in this case have been conducted;

e. that detaining of petitioner in judicial lock-up is not likely to serve any purpose;

f. that chances of conclusion of trial, against the petitioner, in near future are very bleak.

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10. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, in my opinion, the petitioner is entitled for the benefit of bail.

11. Accordingly, the present petition is hereby allowed. The petitioner is admitted to bail on his furnishing bail bonds to the satisfaction of the learned trial Court concerned/Duty Magistrate. In case, the concerned Court is not available, the learned Sessions Judge would be at liberty to assign the abovesaid case for the abovesaid purpose to any other Court.

12. It is however made clear that in case, the petitioner repeats the offence of similar nature, the prosecution will be at liberty to approach the learned trial Court for cancellation of his bail.

(SURYA PARTAP SINGH)
JUDGE

AUGUST 25, 2025
Gaurav Thakur

Whether speaking / reasoned Yes/No
Whether Reportable Yes/No

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