

CRM-M-51839-2025 (O&M)
Reserved on: 15-09-2025
Pronounced on: 18-09-2025

Sukhvir Singh @ Sukhi

State of Punjab

Versus

.....Petitioner(s)

.....Respondent(s)

CORAM: **HON'BLE MR. JUSTICE ANOOP CHITKARA**

Present: Mr. Kirpal Singh Thakur, Advocate
 for the petitioner(s).

 Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J. (Oral)

FIR No.	Dated	Police Station	Sections
559	10.11.2023	Divn.No.7, District Police Commissionerate, Ludhiana	21, 61, 85 NDPS and 52A ofPrison Act

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 16 of the bail application, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	318	8.7.2023	52A(1) Prison Act	Divn.no.7, Ludhiana
2.	85	23.11.2020	22, 29/61/85 NDPS Act	Aur, Distt. SBS Nagar
3.	369	2023	52A Prison Act and 21/61/85 NDPS Act	Divn.No.7, Ludhiana

3. The facts and allegations are taken from the order dated 4.9.2025 passed by Judge, Special Court, Ludhiana, whereby bail of the petitioner was rejected, which reads as under:-
- “Perusal of record shows that FIR in the present case has been registered against the accused on the basis of letter dated 09/10.11.2023 written by Assistant Superintendent, Central Jail, Ludhiana to Police Station Division No.7, Ludhiana

on the allegations that on 09/10-11.2023 at about 08:40 P.M during search of the Jail premises, 03 grams intoxicant powder was recovered from the accused Sukhvir Singh @ Sukhi, who was already lodged in, Central Jail, Ludhiana in case FIR No. 85 dated 23.11.2020, under Sections 22/29/61/85 of NDPS Act, P.S. City Aur, Shaheed Bhagat Singh Nagar.”

4. The petitioner's counsel contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family. He 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.

5. The State's counsel opposes bail and refers to the reply.

REASONING:

6. Admittedly, the name of the contraband recovered from the petitioner is intoxicant powder (Heroin) and its weight is only 3 grams.

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

8. 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.

9. Quantity of the contraband is small and the FIR relates to the year 2023 and as such, no ground is made out to deny bail to the petitioner. 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.

10. 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.¹Personal 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 individual and the community.³

11. The FIR is of 10.11.2023 and the Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible.
12. 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.
13. Given the penal provisions invoked, the legal admissibility of evidence collected against the petition, 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, subject to compliance with the terms and conditions mentioned in this order.
14. 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.
15. 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.
16. 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.	

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.

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

3.	Mobile number (If available)	
4.	E-Mail id (If available)	

17. The bail order is subject to the petitioner’s complying with the following terms.
18. 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.
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, 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 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.
21. 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 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.

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

23. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner-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.

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

18-09-2025
AK

(ANOOP CHITKARA)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO