

CRM-M-56816-2024 and connected case

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56816-2024
Reserved on: 10.07.2025
Pronounced on: 29.07.2025

Jeet Singh alias Jeetu ...Petitioner

Versus

State of Haryana ...Respondent

CRM-M-8994-2025

Jasveer Singh @ Jassi ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sandeep Verma, Advocate
for the petitioner in CRM-M-56816-2024.

Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner in CRM-M-8994-2025.

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
351	14.07.2024	Sadar Dabwali, District Sirsa	15(C), 61, 85 of NDPS Act

1. This order shall dispose of two petitions as mentioned above. For the sake of brevity, facts have been taken from *CRM-M-56816-2024 titled as Jeet Singh alias Jeetu vs. State of Haryana*.
2. The petitioner(s) incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC (483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS]), seeking regular bail.
3. Per paragraph(s) 13 & 12 of the bail petition(s), the respective petitioner(s) have no criminal antecedents.
4. The facts and allegations are taken from the reply filed by the State. On 14.07.2024 based on prior information, the Police seized 52 kg poppy husk from the car, in which petitioner(s) were travelling. The Investigator claims to have complied with all the

CRM-M-56816-2024 and connected case
statutory requirements of the NDPS Act, 1985, and BNSS 2023.

5. The petitioners’ counsel seek bail on the grounds of prolonged pretrial custody.
6. The petitioners’ counsel pray for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their family. Counsel further submits that the petitioners would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioners repeat 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 Special Judge or Sessions 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 petitioners shall have no objection.
7. The State’s counsel opposes bail and refers to the reply.

REASONING:

8. As per the status report, the weight of contraband is 52 kg and it contains poppy husk.
9. Dealing with this contraband is an offence under the following provisions and notifications:

Substance Name	Poppy straw	
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<i>Drug's Small & Commercial Qty. suggested by Committee report</i>		
<i>Notification No. & date</i>	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.	110	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	Poppy straw	
Other non-proprietary name	*****	
Chemical Name	*****	

CRM-M-56816-2024 and connected case

Small Quantity	<=1 KG
Commercial Quantity	>50 KG

Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) & 2(xxiii) NDPS Act, 1985		
Notification No. & dated	S.15 & S.2(xviii) NDPS Act, S.O.821(E)	11/14/1985

Sr. No.	S.2(xviii)
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN)	*****
Other non-proprietary name	*****
Chemical Name	S.2(xviii) “poppy straw” means all parts (except the seeds) of the opium poppy after harvesting whether in their original form or cut, crushed or powdered and whether or not juice has been extracted therefrom; S. 2(viiiib)] “illicit traffic”, in relation to narcotic drugs and psychotropic substances, means— (i) cultivating any coca plant or gathering any portion of coca plant; (ii) cultivating the opium poppy or any cannabis plant; (iii) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transshipment, of narcotic drugs or psychotropic substances; S.2 (xvii) “opium poppy” means— (a) the plant of the species Papaver somniferum L; and (b) the plant of any other species of Papaver from which opium or any phenanthrene alkaloid can be extracted and which the Central Government may, by notification in the Official Gazette, declare to be opium poppy for the purposes of this Act; S2. (xviii) “poppy straw” means all parts (except the seeds) of the opium poppy after harvesting whether in their original form or cut, crushed or powdered and whether or not juice has been extracted therefrom;

CRM-M-56816-2024 and connected case

10. The quantity allegedly involved in this case is commercial. Given this, the rigors of S. 37 of the NDPS Act apply in the present case. The petitioners must satisfy the twin conditions set forth by the Legislature under Section 37 of the NDPS Act.

11. The petitioners are entitled to bail because for the same drug, and when the quantity involved was either more or closer to the quantity seized in the present FIR, the Hon'ble Supreme Court has granted bail on prolonged custody in the following judicial precedent:

12. In *Shambhulal Gurjar v. State of Rajasthan*, Decided on 23-04-2024, SLP (Crl) 16671-2024, Hon'ble Supreme Court holds,

The allegation against the petitioner is that there is a recovery of 60 kgs of poppy husk/straw (contraband article) from him and prior to this incident, he has three criminal antecedents relating to the NDPS Act registered in the year 2019, 2021 & 2022. The third bail application of the petitioner was dismissed by the High Court. He has already undergone about 1 year and 8 months in jail.

Heard learned counsel for the petitioner and the respondent State.

Considering the fact that the contraband article is a poppy straw although he has three criminal antecedents but since he has been in jail for the last 1 year and 8 months, we are of the opinion that a case of bail is made out for the petitioner.

13. Given this, the criminal antecedents are also not legal grounds for denying the rigors of S. 37 of the NDPS Act at this stage.

14. Per the custody certificate dated 09.07.2025, petitioner-Jasveer Singh's custody is 11 months & 23 days and Jeet Singh's custody is 08 months & 19 days as per custody certificate dated 06.04.2025.

15. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act¹.

16. Following the judicial precedent mentioned above, further no purpose would be served by detaining the petitioner(s) behind the bars, trial Court would take long time and without commenting on the case's merits, and considering the petitioners' pre-trial custody, the weight of the drugs, coupled with the other factors peculiar to this case, further pre-trial incarceration is not justified at this stage, subject to the terms and conditions of this order.

¹ Supreme Court of India, in *Rabi Prakash v. The State of Odisha*, SLP (Crl) 4169-2023, Para 4, decided on 13 July 2023

CRM-M-56816-2024 and connected case

CONDITIONS:

17. Given above, provided the petitioners are 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 concerned Court and due to unavailability before any nearest Ilaqa Magistrate or duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

18. While furnishing a personal bond, the petitioners 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)

19. This order is subject to the petitioners’ complying with the following terms.

20. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioners 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.

21. Given the background of allegations against the petitioners, it becomes paramount to protect the members of society, detection squad 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 petitioners shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days of release from prison and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioners shall be entitled to renew and reclaim them in case of acquittal in this case, provided otherwise permissible under the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

22. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug

CRM-M-56816-2024 and connected case

abuse. In Mohammed Zubair v. State of NCT of Delhi, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No. 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of the Hon'ble Supreme Court held that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

23. In Md. Tajiur Rahaman v. The State of West Bengal, decided on 08-Nov-2024, SLP (Crl) 12225-2024, the Hon'ble Supreme Court holds in Para 7, "It goes without saying that if the petitioners are found involved in such like offence in future, the concession of bail granted to him today will liable to be withdrawn and the petitioners are bound to face the necessary consequences."

24. The significant consideration for granting bail is that the Court aims to give the petitioners another chance to course-correct, reform, and reintegrate into the community as an ideal citizen. To ensure that the petitioners also abides by the assurance made on the petitioners' behalf by not repeating the offence or indulging in any crime, it shall be desirable to impose the following additional condition.

25. This bail is conditional, with the foundational condition being that if the petitioners repeat the offense where the quantity involved is more than half of the intermediate, or commercial, or violates S. 19, 24, or 27-A of the NDPS Act, or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, 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.

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

27. A certified copy of this order is not required for furnishing bonds. An Advocate for the Petitioners can download the order from the Court's official web page and attest it as a true copy. If needed, the attesting officer can verify its authenticity online and use the downloaded copy to attest bonds.

28. Petitions allowed in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

29.07.2025

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Whether speaking/reasoned: Yes

Whether reportable: No