



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

207

**CRM-M No.58797-2024 (O&M)
Date of Decision: 09.01.2025**

Raju Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Ajaypal Singh Sandhu, Advocate for the petitioner.

Mr. Ashok S. Chaudhry, Addl.A.G., Haryana.

MAHABIR SINGH SINDHU, J.

Present petition has been filed, under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of pre-arrest bail to the petitioner in FIR No.386 dated 22.08.2024, registered under Sections 22-C, 27-A of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act') (Section 29 of NDPS Act added later on) at Police Station City Fatehabad, District Fatehabad.

2. Allegations are that petitioner purchased 650 strips of Tramadol tablets from co-accused-Rohit Kumar for the purpose of selling it.

3. It is contended by learned Counsel for the petitioner that he was not named in the FIR; rather nominated on the basis of disclosure made by co-accused Rohit Kumar and apart that, there is no other material regarding his complicity; hence, no offence is made out against him. Also contended that false recovery has been implanted upon the petitioner. Apart from his disclosure, there is no evidence regarding involvement of the petitioner in



the case. Also contends that he has been falsely implicated in the present case merely on account of the fact that he is a previous convict. Therefore, the petitioner may be ordered to be released on pre-arrest bail.

4. *Per contra*, learned State counsel while opposing the prayer submitted that petitioner is not only a previous convict; rather he is facing several NDPS cases and moreover, recovery alleged in the present case is commercial in nature and as such, in view of the specific bar under Section 37 of the NDPS Act, present petition is liable to be dismissed.

5. Heard learned counsel for the parties and perused the record.

6. Status report dated 06.12.2024 reveals that petitioner is involved in several NDPS cases and details of which are as under:-

Sr. No.	FIR No. and date	Offence	Police Station
1.	221 dated 11.12.2019	Sections 22, 29 of NDPS Act	Boha, District Mansa
2.	82 dated 29.05.2020	Section 22 of NDPS Act	Boha, District Mansa

Apart that, petitioner has also been convicted under the NDPS Act in two cases and details of which are as under:-

FIR No. and date	Offence	Police Station
115 dated 11.12.2000	Section 15B of NDPS Act	Boha, District Mansa
40 dated 12.07.2010	Section 15 of NDPS Act	Cheema, District Sangrur

A bare perusal of the above FIRs reveals that petitioner is a habitual offender, having no respect for the rule of law.

7. Before proceeding further, it is relevant to extract the provisions of Section 37 of the NDPS Act and the same read as under:-



Section 37 of the NDPS Act – Offences to be cognizable and non-bailable.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.”

8. Aforesaid Section, is in the nature of non-obstante clause and which, *interalia*, lays down that no person accused of an offence involving commercial quantity shall be released on bail, unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such an offence and not likely to commit any offence while on bail.

9. Both the above conditions are cumulative and not alternative. The law is well settled that requirement of satisfaction in terms of Section 37 (1)(b)(ii) (*ibid*) regarding the accused being not guilty is to be recorded on the basis of reasonable grounds and that should be more than *prima facie*.

10. The recovery alleged is commercial in nature; therefore, this Court is not inclined to record the twin test satisfaction in favour of



petitioner in terms of Section 37 of the NDPS Act.

11. Consequently, there is no option, except to dismiss the petition “at this stage”.

12. Ordered accordingly.

13. The above observations be not construed as an expression of opinion on merits of the case in any manner.

Pending application(s), if any, shall also stand disposed off.

09.01.2025
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

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