

CRM-M-58380-2025

2025:PHHC:159701



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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Harwinder Yadav @ Harvinder Yadav @ Dhania
.....Petitioner
versus
State of Punjab
.....Respondent

Date of decision: November 18, 2025
Date of Uploading: November 18, 2025

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Davinder Singh Saini, Advocate for the petitioner.
Mr. Jaypreet Singh, DAG Punjab.

SUMEET GOEL, J. (ORAL)

Present petition has been filed under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to
the petitioner in case bearing FIR No.34 dated 07.03.2025, registered for the
offences punishable under Sections 22, 27, 29, 61 & 85 of the Narcotic Drugs
and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Section 111
of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS'), at Police Station Sadar
Rupnagar, Rupnagar.

2. The gravamen of the allegations against the petitioner is that the
petitioner is an accused of being involved in an FIR pertaining to NDPS Act
involving alleged recovery of 11 intoxicant Buprenorphine injections labeled as
Leegestic of 2 ml each and 06 injections labeled as Avil of 10 ml each from the
petitioner, on 07.03.2025 by the police.

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3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 07.03.2025. Learned counsel has further submitted that mandatory provisions of the NDPS Act have not scrupulously been complied with, and thus, the prosecution case suffers from inherent defects. Learned counsel has argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has iterated that the contraband alleged to have been recovered from the petitioner is 21.935 grams of intoxicant (Buprenorphine Hydrochloride), which is marginally above the threshold limit of non-commercial quantity specified in the notification issued under the NDPS Act. Learned counsel has iterated that the trial is delayed and the liability thereof cannot be fastened upon the petitioner. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that allegations raised against the petitioner are serious in nature and, thus, the petitioner does not deserve the concession of the regular bail. Learned State counsel has further submitted that the instant bail plea is barred by the rigors of Section 37 of the NDPS Act, and thus, the same ought to be dismissed. Learned State counsel seeks to place on record custody certificate dated 17.11.2025 in the Court today, which is taken on record.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. The petitioner was arrested on 07.03.2025 whereinafter investigation was carried out and challan has been presented on 02.07.2025. Out of total 13 cited prosecution witnesses, none has been examined till date. It is thus, indubitable that conclusion of the trial will take long. It is not in dispute before this Court that the contraband allegedly recovered from the petitioner is 21.935 grams of intoxicant (Buprenorphine Hydrochloride), which is

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marginally above the threshold limit of non-commercial quantity. Reliance in this regard can be placed upon the orders passed by this Court in *Rajdev Giri versus State of Punjab*, CRM-M-44898-2019, decided on 18.09.2020; *Rahish versus State of Haryana*, CRM-M-36498-2020, decided on 11.11.2020; *Karambir versus State of Haryana*, CRM-M-31820-2019, decided on 28.08.2019; *Jagjit Singh @ Jagga Gill versus State of Punjab*, CRM-M-41242-2019, decided on 27.02.2020 and *Baljit Kaur @ Baljito versus State of Punjab*, CRM-M-12849-2020, decided on 04.06.2020, wherein accused were enlarged on bail in cases where the alleged recovery was slightly more than the quantity prescribed for commercial category under the NDPS Act. The rival contentions raised at Bar give rise to debatable issues, which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1. The trial is indeed procrastinating and folly thereof cannot be saddled upon the petitioner. As per custody certificate dated 17.11.2025 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of 08 months & 07 days. In this view of the matter, the rigor imposed under Section 37 of the NDPS Act stands diluted in light of the Article 21 of the Constitution of India.

6.2. Further, as per the said custody certificate the petitioner is stated to be involved in other FIR(s). However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the

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petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586*; a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in CRM-M No.38822-2022 titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned trial Court/Duty Magistrate, the petitioner shall remain bound by the following conditions:

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.
- (viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after his

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being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned trial Court/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

November 18, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No