

2026.PHHC.005831



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8556-2025
Date of Decision: 15.01.2026

Deepak Rai alias Deepak alias Deepu ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

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

Mr. Armaan Dahiya, AAG, Haryana.

AARADHNA SAWHNEY, J. (ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No.182 dated 26.04.2024 registered against him, for commission of offences punishable under Sections 22/27(a) (added later on) of the NDPS Act at Police Station Jind City, District Jind, has prayed for grant of bail.
2. Relevant facts emerging from documents on record be noticed hereinbelow:-

“On 26.04.2024, police team headed by ASI, Surender Kumar, received a secret information that Deepak @ Deep S/o Nirmal Dev, R/o Haqiqat Nagar, Jind, who is habitual of selling banned drugs, after procuring them from Delhi can be apprehended red handed today on his way back home from Jind, Railway Station along with huge quantity of contraband. Secret informer also disclosed the physical identification details of Deepak @ Deep. Finding the information reliable notice u/s 42 was sent to Police Station, City Jind to register in the daily diary. ASI, Surender Kumar

prepared a raiding team disclosed them about the facts narrated by the secret informer. The police team reached the disclosed site. After some time they noticed a person coming from the side of the railway station, holding a black coloured polythene bag in his right hand. On seeing the police party, the aforesaid person tried to run away. On account of suspicion having arisen the police team chased him and were able to apprehend him. When questioned, the person introduced himself as Deepak @ Deep (petitioner) S/o Nirmal Dev, R/o Haqiqat Nagar, Jind. Notice u/s 50 NDPS Act was also served upon Deepak intimating him about his legal right. It is further the case of the prosecution that in presence of Naib Tehsildar, Safidon accused was searched. No contraband was recovered from his possession but from the black coloured polythene bag 108 strips, each strip containing 08 capsules, total 864 capsules of Dicyclomine Hydrochloride, Tramadol Hydrochloride Acetaminophen, were recovered, which when weighed were 648 grams. Accused was apprehended. Case property was taken into possession, later produced before the Magistrate and proceedings u/s 52A of the Act were completed. Accused, who was arrested on 26.04.2024 was interrogated who disclosed that prohibited drugs had been purchased by him from co-accused Dharminder S/o Hari Ram R/o E-268, Gali No.10, Panchal Vihar, Karawal Nagar, Delhi for Rs.9,000/-, as also that the same had to be delivered to Ramesh. It is further the case of the prosecution that co-accused Dharminder, who was granted pre-arrest bail disclosed during interrogation that the prohibited drugs had been purchased by him from Brijesh for Rs.8,000/-. Resultantly, Section 27A of the NDPS Act was invoked. Sealed parcels were sent to the FSL. On completion of investigation, formal challan was present in the Court on 28.08.2024. Admittedly, the petitioner and other co-accused have been charge-sheeted for commission of offence u/s 22/27A of the Act.

Petitioner-accused, who was arrested on 26.04.2024 moved an application for grant of bail before the learned Ld. Additional Sessions Judge,

Jind. The same was dismissed vide order dated 28.08.2024. Aggrieved of which, present petition has been filed.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. The very fact that the police team had allegedly received secret information about petitioner keeping in his illegal possession contraband/prohibited drugs, but no efforts were made by the team to involve any independent witness as a 'witness' to the case proceedings raises doubt on the genuineness of the story put-forth by them. It is further the submission of learned counsel that even statutory formalities were not complied with at the site.

The next leg of submission raised by learned counsel is that petitioner, who has been in custody since 26.04.2024 and whose past antecedents are clean, deserves a lenient view to be taken in his favour as possibility of completion of trial in the near future, is quite remote, for out of 19 prosecution witnesses only 03 have been examined, thus, his further incarceration would not serve any useful purpose and would also be violative of Fundamental rights guaranteed under Article 21 of the Constitution of India. Primarily with this submission, prayer for allowing the petition has been made.

4. *Per contra*, learned State counsel while referring to the status report dated 22.12.2025 filed by way of affidavit of Mr. Sandeep Kumar, HPS, Deputy Superintendent of Police, Jind, has opposed the request for grant of bail on the ground that petitioner is habitual offender. Based on secret information, the police team headed by the ASI, Surender Kumar caught him red handed while keeping in his conscious possession 864 capsules of Dicyclomine Hydrochloride, Tramadol Hydrochloride Acetaminophen (prohibited drug), weighing 648 grams in black polythene. Learned State

counsel further contends that contraband recovered in the present case falls within the 'Commercial Quantity'. In view thereof, rigors of Section 37 of NDPS Act are attracted which bar the grant of bail, unless the twin conditions prescribed in the provision are satisfied. Further according to him, if lenient view is taken in favour of the petitioner, the likelihood of him indulging in similar offence and fleeing from process of justice cannot be ruled out. Dismissal of the petition has been prayed for.

5. I have heard the learned counsel for the parties and have gone through the documents on record.

6. Before proceeding to discuss the rival contentions, it would be appropriate to refer to judgment of Hon'ble Supreme Court wherein case titled as ***Shambu Lal Gurjar Vs. State of Rajasthan, SLP Criminal 16671 of 2024***, decided on 23.04.2024, it was held as under:-

"The allegations against the petitioner is that there is a recovery of 60 kgs 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 and 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."

Further in ***Chitta Bishwas @ Shubash Vs. State of West Bengal Law Finder Doc Id# 1938935***, considering the duration of custody and progress in trial, Hon'ble Supreme Court granted bail to an accused/appellant who was found in possession of 46 bottles of PHENSYDRYL Cough Syrup containing codeine mixture above commercial quantity.

In *Md Aliul Islam @ Aliul Islam @ Aliul Vs. State of West Bengal Law Finder Doc Id# 2734487*, Hon'ble Supreme Court granted bail to an accused, involved in a case under Section 21(c)/27A of NDPS, considering custody period and similarity with other accused, whose bail had been allowed.

Similarly in *Devrata Mondal Vs. State of West Bengal Law Doc Finder Id # 2734476*, on the ground of prolonged custody and parity with other accused, co-accused Davrata, who was allegedly caught keeping in his possession 290 bottles of PHENSYDRYL Cough Syrup (Commercial quantity) was granted the concession of bail by the Hon'ble Supreme Court.

In *Santarul Islam Vs. State of West Bengal, Law Finder Doc Id# 2735329*, Hon'ble Supreme Court granted bail to the petitioner who was also caught keeping in his illegal possession of PHENSYDRYL Cough Syrup (on the ground of prolonged custody and nature of contraband).

Having gone through the aforesaid judgments, it is clear that Constitutional liberty must override the statutory embargo. Guided solely by the said principle and considering that the possibility of completion of trial in near future is quite remote, petitioner, who has been in custody since 26.04.2024 and whose past antecedents are clean, deserves a lenient view in his favour as the Court is of the opinion that in the facts and circumstances as mentioned hereinabove, further incarceration of petitioner in custody would not serve any purpose. Resultantly, petitioner is granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

- (i) *The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) *The petitioner will not tamper with the evidence during the trial.*

(iii) *The petitioner will not pressurize/ intimidate the prosecution witnesses.*

(iv) *The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*

(v) *The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*

(vi) *The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*

(vii) *The petitioner shall not in any manner misuse his liberty.*

(viii) *The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.*

(ix) *The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.*

7. Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

15.01.2026

Parveen kumar

(AARADHNA SAWHNEY)
JUDGE

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