



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

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**CRM-M-21053-2026
Decided on : 18.04.2026**

Mohit Kumar

... Petitioner(s)

Versus

UT Chandigarh

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Kamal Chaudhary, Advocate
for the petitioner(s).

Mr. Manish Bansal, PP, UT Chandigarh and
Mr. Alankrit Bhardwaj, Addl. PP, UT Chandigarh.

SANJAY VASHISTH, J. (Oral)

1. Petitioner – Mohit Kumar, aged about 32 years, has filed the instant petition under Section 482 of the BNSS, 2023 (earlier Section 438 Cr.P.C.), seeking grant of anticipatory bail in respect of the subsequently added offence(s), i.e. Section 27A of the NDPS Act, 1985, in case FIR No.0002 dated 05.01.2025, initially registered under Sections 21 and 29 of the NDPS Act, 1985 (with Section 27A added later), at Police Station ANTF, Sector 11, Chandigarh.

2. Initially, FIR in the present case was registered only under Section 21 of the NDPS Act, 1985, when on 05.01.2025 accused – Gautam was arrested along with heroin weighing 70 grams. On the basis of the disclosure statement of accused Gautam, another accused Rohit was arrested on 07.01.2025 along with heroin weighing 10.30 grams. Thereafter, first challan against accused Gautam and Rohit was presented on 02.03.2025.

Further, on the basis of disclosure statement, petitioner-Mohit



Kumar was also arrested on 15.03.2025. However, no substantial recovery was effected from him. The prosecution further alleged that on the basis of disclosure statement of Mohit Kumar, though nothing was recovered from his possession, however, one more accused, namely Vijay Kumar, was arrested on 15.03.2025 along with cocaine weighing 6.05 grams and currency notes amounting to Rs.31,000/-. Another accused Rajat was also arrested on 14.05.2025 on the basis of disclosure statement of co-accused Vijay Kumar.

3. After completion of investigation, first supplementary challan against the remaining aforesaid accused persons was presented on 14.05.2025. Thereafter, another accused Sukhdev Singh was arrested on 14.12.2025 along with heroin weighing 19.93 grams and one Bullet motorcycle allegedly belonging to the petitioner-Mohit Kumar. Consequently, second supplementary challan was presented on 10.02.2026. However, this time, challan was submitted under Sections 21, 22, 29 and 27A of the NDPS Act, 1985 read with Section 111 of the BNS, 2023.

4. Considering the allegations against the petitioner that he was allegedly managing drug money of co-accused Vijay Kumar, though nothing was recovered from his possession and the quantity of contraband allegedly connected with him was only 6.05 grams of cocaine recovered from Vijay Kumar, petitioner-Mohit Kumar was granted concession of regular bail by this Court vide order dated 21.08.2025 passed in CRM-M-28552-2025 (O&M) and connected matter titled *Mohit v. Union Territory, Chandigarh* (Annexure P-3). His co-accused Rajat was also granted regular bail vide the same order.



5. After grant of regular bail to the petitioner, when the second supplementary challan was filed by the prosecution agency on 10.02.2026 against accused Sukhdev Singh, additional offences under Sections 22, 29 and 27A of the NDPS Act, 1985 and Section 111 of the BNS, 2023 were invoked. While presenting the challan, it was mentioned in the official report that Section 27A of the NDPS Act along with Section 111 of the BNS, 2023 were also invoked against the present petitioner, though he had already been sent up to face trial earlier.

6. Apprehending arrest and being guided by the judgment of the Hon'ble Supreme Court in Pradeep Ram v. State of Jharkhand & Anr.; 2019(3) RCR (Crl.) 538 : Law Finder Doc Id # 1526592, petitioner initially approached the learned trial Court (Judge, Special Court, Chandigarh) seeking anticipatory bail in respect of the newly added offences. However, taking into consideration the bar contained under Section 37 of the NDPS Act, the said relief was declined.

7. I have considered the submissions addressed by learned counsel for the respective parties and have also gone through the relevant record available on the case file. *Prima facie*, once regular bail had already been granted to the petitioner by this Court vide order dated 21.08.2025 (Annexure P-3), mere addition of new Sections, namely Section 27A of the NDPS Act and Section 111 of the BNS, 2023, would not by itself render the earlier bail order inoperative.

Moreover, nothing has been pointed out by the prosecution as to for what specific purpose custodial interrogation of the petitioner is now required. The ratio laid down by the Hon'ble Supreme Court in *Pradeep*



Ram's case would also be relevant in the present circumstances.

The relevant observations made by Hon'ble Apex Court are reproduced here-under:-

“27. Relying on the above said order, learned counsel for the appellant submits that respondent State ought to get first the order dated 10.03.2016 granting bail to appellant cancelled before seeking custody of the appellant. It may be true that by mere addition of an offence in a criminal case, in which accused is bailed out, investigating authorities itself may not proceed to arrest the accused and need to obtain an order from the Court, which has released the accused on the bail. It is also open for the accused, who is already on bail and with regard to whom serious offences have been added to apply for bail in respect of new offences added and the Court after applying the mind may either refuse the bail or grant the bail with regard to new offences. In a case, bail application of the accused for newly added offences is rejected, the accused can very well be arrested. In all cases, where accused is bailed out under orders of the Court and new offences are added including offences of serious nature, it is not necessary that in all cases earlier bail should be cancelled by the Court before granting permission to arrest an accused on the basis of new offences. The power under Sections 437(5) and 439(2) are wide powers granted to the court by the Legislature under which Court can permit an accused to be arrested and commit him to custody without even cancelling the bail with regard to earlier offences. Sections 437(5) and 439(2) cannot be read into restricted manner that order for arresting the accused and commit him to custody can only be passed by the Court after cancelling the earlier bail.

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29. In view of the foregoing discussions, we arrive at following conclusions in respect of a circumstance where after grant of bail to an accused, further cognizable and non-bailable offences are added:-

- (i) The accused can surrender and apply for bail for newly added cognizable and non-bailable offences. In event of refusal of bail, the accused can certainly be arrested.
- (ii) The investigating agency can seek order from the court under



Section 437(5) or 439(2) of Cr.P.C. for arrest of the accused and his custody.

- (iii) *The Court, in exercise of power under Section 437(5) or 439(2) of Cr.P.C., can direct for taking into custody the accused who has already been granted bail after cancellation of his bail. The Court in exercise of power under Section 437(5) as well as Section 439(2) can direct the person who has already been granted bail to be arrested and commit him to custody on addition of graver and non-cognizable offences which may not be necessary always with order of cancelling of earlier bail.*
- (iv) *In a case where an accused has already been granted bail, the investigating authority on addition of an offence or offences may not proceed to arrest the accused, but for arresting the accused on such addition of offence or offences it need to obtain an order to arrest the accused from the Court which had granted the bail.”*

This proposition has already been discussed by this Court in CRM-M-33118-2025 (O&M) & connected case, titled as, “*Himanshu Yadav v. State of Haryana*”, pronounced on 16.12.2025.

8. If custodial interrogation of the petitioner is required, it shall always be open to the Investigating Officer to move an appropriate application before the competent Court by assigning specific reasons seeking permission for re-arrest of the petitioner/accused. Therefore, merely because in the earlier bail order dated 21.08.2025, the subsequently added provisions, i.e. Sections 29 and 27A of the NDPS Act and Section 111 of the BNS, 2023, were not mentioned, petitioner shall not be arrested in the said offences as well, unless reasons are first placed before the trial Court by the Investigating Agency/Investigating Officer and appropriate orders are obtained in accordance with law.

9. Consequently, in view of the discussion made here-above and



the facts and circumstances noticed in paragraphs No.1 to 8, the present petition is allowed. In the event of arrest of the petitioner in connection with the subsequently added offences in the aforesaid FIR, he shall be released on anticipatory bail to the satisfaction of the Arresting/Investigating Officer concerned, subject to his furnishing requisite bail/surety bonds and further subject to the conditions as envisaged under Section 482(2) of the BNSS, 2023.

10. It is, however, clarified that this order shall not preclude the Investigating Agency from seeking custodial interrogation of the petitioner, if so required, by moving an appropriate application before the competent Court and by assigning specific reasons in accordance with law.

11. Nothing observed herein shall be construed as an expression on the merits of the case.

12. With the directions issued here above, **present petition stands disposed of.**

Pending misc. application(s), if any, also stand disposed of.

(SANJAY VASHISTH)
JUDGE

April 18, 2026
J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*