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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-32814-2025
Decided on : 07.04.2026

SURJEET KUMAR @ BADAL
.....Petitioner
Versus
STATE OF HARYANA
.....Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Ms. Gayatri Bakshi, Advocate,
for the petitioner.
Mr. Parveen Kumar Aggarwal, Addl. AG, Haryana.

SANJAY VASHISTH, J.

1. The instant petition has been filed under Section 483 of BNSS, 2023 (earlier Section 439 Cr.P.C.), for grant of regular bail to the petitioner, during the pendency of trial, who has been booked in a criminal case arising out of First Information Report, as detailed hereunder:-

Name of Petitioner(s)	FIR No.	Date	Section(s)	Police Station	District
Surjeet Kumar @ Badal, aged about 38 years	226	16.10.2024	22-C and 29 of NDPS Act	Barara	Ambala

2. After hearing the submissions addressed by counsel for the petitioner, on 08.10.2025, following order was passed:-

“1. Petitioner-Surjeet Kumar @ Badal, aged 38 years, has filed the instant petition seeking regular bail, in case FIR No.226 dated 16.10.2024, under Sections 22-C and 29 of NDPS Act, registered at Police Station Barara, Ambala.



2. The recovery in the present case pertains to 920 capsules of Proximo Spas, with the total weight of capsules including wrapper being 744.05 grams, and excluding wrapper, 554.3 grams. As per the FSL report dated 14.11.2024 (Exhibit P-2), each capsule contains the following ingredients:

(i) Tramadol HCL – 50 mg

(ii) Dicyclomine HCL – 10 mg

(iii) Acetaminophen – 325 mg per capsule.

Learned counsel for the petitioner argues that the total quantity of psychotropic substances from the 920 capsules amounts only to $920 \times 50 \text{ mg} = 46,000 \text{ mg} = 46 \text{ grams}$ of Tramadol HCL. This quantity qualifies as intermediate quantity as per the NDPS notification dated 19.10.2001 (Entry No. 110), wherein the commercial quantity is fixed at 250 grams.

It is further contended that since the recovered quantity should be considered as intermediate quantity, the bar under Section 37 of the NDPS Act would not be attracted in the present case. The actual psychotropic substance recovered (Tramadol HCL) is only 46 grams, which is significantly less than the commercial quantity of 250 grams. Learned counsel further submits that the investigation has already been completed, and the petitioner has been in custody for approximately one year. The petitioner has no previous criminal record and is therefore entitled to be released on bail.

3. On the other hand, learned State counsel has filed a reply affidavit of Suresh Kumar, HPS, Deputy Superintendent of Police, Barara, District Ambala, on behalf of the respondent/State, which has been taken on record today. The Registry is directed to tag the same appropriately with the paper book.

Learned State counsel submits that the quantity recovered, measured as the total weight of capsules (744.05 grams) or even excluding wrappers (554.3 grams), qualifies as commercial quantity. Hence, no leniency should be extended, and the petition for bail may be dismissed.

4. Learned counsel for the petitioner reiterates that in cases involving intoxicating capsules, the narcotic substance alone must be considered, not the overall weight of the capsules. As per the calculations in the petition, the actual narcotic substance (Tramadol HCL) recovered is only 46 grams, which is well below the threshold of 250 grams fixed for commercial quantity.



Learned counsel for the petitioner further seeks some time to cite relevant case law in support of this submission.

5. List on 11.12.2025.”

3. Counsel for the petitioner submits that reference made in the judgment of the Hon’ble Apex Court in **‘Hira Singh vs. Union of India’, 2020 (2) RCR (CrI) 523**, is still pending reconsideration.

However, learned counsel reiterates that, at this stage, in the absence of a final decision on the said reference, petitioner ought not to be kept in custody for an indefinite period, merely on the basis of assumptions. It is contended that, as per the FSL report, the actual narcotic substance, i.e., Tramadol Hydrochloride, recovered from 920 capsules of Proximo Spas is 46 grams, which is significantly below the threshold of 250 grams prescribed for commercial quantity.

It is further submitted that petitioner, aged 38 years, is in judicial custody since 16.10.2024, i.e., for approximately one year and five months.

4. While advancing arguments, learned counsel has also produced a copy of the petitioner’s disability certificate dated 26.07.2000, which reflects that petitioner, at the age of 18 years, was assessed to be 70% disabled.

Photocopy of the said disability certificate is taken on record. Registry is directed to tag the same at the appropriate place on the file.

Thus, counsel prays for grant of regular bail to the petitioner in the present case.



5. In response to the arguments addressed by learned counsel for the petitioner, learned State counsel, produces the custody certificate dated 05.04.2026 in Court today, which is taken on record. Office to tag the same at appropriate place. A copy thereof has been handed over to the counsel for the petitioner.

As per the custody certificate, in the present case, petitioner has already undergone 01 year 05 months and 17 days period inside jail and there is no other case registered against him.

6. On asking of the Court, learned State counsel informs that out of total 27 prosecution witnesses, none has been examined, till date.

7. This Court has heard the submissions advanced by learned counsel for the parties and has perused the record available on file.

8. Undoubtedly, present case pertains to the recovery of 920 capsules of Proximo Spas, containing Tramadol Hydrochloride. The issue regarding the actual content of Tramadol Hydrochloride—whether it amounts to 46 grams or 744.05 grams in the total 920 capsules—is presently under consideration before the Hon’ble Apex Court in the reference arising out of **Hira Singh (supra)**.

Petitioner is in custody for a period of approximately one year and five months. It is also noteworthy that, out of total 27 prosecution witnesses, none has been examined, so far. Moreover, petitioner, aged 38 years, is stated to have clean antecedents, as no criminal case has been registered against him in the past, except the present one.



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9. Considering the totality of the circumstances, nature of allegations, and the factors noticed here above, this Court deems it appropriate to grant the concession of regular bail to the petitioner in the present case.

Consequently, prayer made in the present petition is **allowed**. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

10. Needless to observe that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

11. Any of the discussion done and recorded here above, shall not be construed as an expression of opinion on the facts of the case. Therefore, trial Court is expected to decide the case by taking an independent view, on the basis of evidence available on record, as expeditiously as possible, in accordance with law.

12. It is further made clear that if, in future, petitioner is directly found indulged in similar kind of activities, this order shall be deemed to be cancelled.

13. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

07.04.2026
Lavisha

Whether Speaking/Reasoned: YES/NO
Whether Reportable: YES/NO