

2026:PHHC:010837



216-2

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

CRM-M-35423-2025

Date of Decision: 21.01.2026

Mukesh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Manmohan Saroop, Advocate and
Ms. Meenakshi Saroop, Advocate
for the petitioner

Mr. Vishal Singh, 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.169 dated 16.09.2024 registered against him, for commission of offences punishable u/s 22(c)/29 of the NDPS Act at Police Station Panjokhra, District Ambala, has prayed for grant of bail.

2. Relevant facts emerging from documents on record be noticed hereinbelow:-

“On 16.09.2024, police team headed by SI, Yash Raj, were on patrolling when they received a secret information that Deepi @ Laadi son of Rampal, R/o Dhanana, District Ambala and Mukesh (present petitioner) son of Sant Ram, R/o village Kanjana, District Ambala are engaged in the profession of selling narcotic drugs, as also that both of them are visiting the area of Patvi, Police Post, near Batchu Dhaba and can be apprehended red handed while keeping in their illegal possession contraband. Finding the information reliable, senior police authorities were intimated. Ruqa was sent through EHC Ramesh Kumar. After completing the

statutory formalities, police team laid a 'nakka' at the disclosed site, when at about 08:20 pm they saw 02 persons sitting on the motorcycle outside the dhaba, who when questioned introduced themselves as Deepi @ Laadi and Mukesh. It is further the case of prosecution that person, who was sitting on the motorcycle was carrying black coloured bag on his shoulder. After intimating them of their legal right u/s 50 of the Act, from the search of bag of Mukesh total 42 strips of capsules were found, out of which 18 strips contained 24 capsules, total 432 capsules of Dicyclomine Hydrochloride, Tramadol Hydrochloride Acetaminophen Capsules "PARVION SPAS and another 24 strips of capsules, each strip containing 24 capsules, total 576 capsules "SPASMO PROXIVON PLUS, in all 1008 capsules were recovered, weighing 777 grams 08 milligrams. Further, one mobile phone (make Infinix Smart 8) along with SIM card No.99912-86655 was recovered from the right pocket of Deepi @ Laddi and one key pad mobile phone (make Hero) with SIM card No.94168-07464 and RC of motor cycle were recovered from the trouser worn by petitioner Mukesh @ Mintu. It also came to the notice of the police authorities that the motorcycle was registered in the name of Rinkal Saini. After arrest, both Deepi and Mukesh were interrogated. During which they disclosed that the medicines had been purchased from Adrish Khan, who runs a shop at Numaish Chowk, Saharanpur, Uttar Pradesh. During further disclosure statement name of one co-accused Narender Singh @ Sunny Rana also cropped up. Sealed parcels were sent to the FSL. On completion of investigation, formal challan was present in the Court.

Petitioner-accused, who was arrested on 16.09.2024 moved an application for grant of bail before the learned Ld. Additional Sessions Judge, Ambala. The same was dismissed vide order dated 05.02.2025. 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 serious doubt on the genuineness of the story put-forth by them. It is further the submission of learned counsel that even the 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 16.09.2024 and whose past antecedents are clean (being not involved in any criminal case), 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 26 prosecution witnesses none has been examined so far, 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 has opposed the request for grant of bail on the ground that based on secret information, the police team caught the petitioner red handed while keeping in his conscious possession 1008 capsules of *Dicyclomine Hydrochloride*, *Tramadol Hydrochloride* *Acetaminophen Capsules* (prohibited drug), weighing 777 grams 08 milligrams. 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 16.09.2024 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.

21.01.2026
Parveen kumar

(AARADHNA SAWHNEY)
JUDGE

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