



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

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**CRM-M-38311-2026.
Date of Decision: 07.04.2026.**

Rajesh @ Raju

....Petitioner.

VERSUS

State of Haryana

....Respondent.

CORAM : HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Anshuman Dalal, Advocate and
Mr. Sandeep K. Kashyap, Advocate for the petitioner.

Mr. Parveen Kumar, Additional Advocate General, Haryana.

SANJAY VASHISTH, J. (Oral)

Petitioner-Rajesh @ Raju has filed the present petition under Section 483 of BNSS, seeking regular bail in case FIR No.13 dated 31.01.2025 under Sections 22-C and 29 of the NDPS Act, registered at Police Station Shahazadpur, District Ambala.

2. As per case of the prosecution, on 31.01.2025, a secret information was received that petitioner-Rajesh @ Raju is involved in the illegal deals of narcotic capsules and today he is supposed to come on foot from village Kakkar Majra towards Shahazadpur highway, to sell narcotic capsules.

On installing *Naka*, accused was arrested and from black coloured polythene bag, which he was holding in his right hand, intoxicant capsules marka NRX Dicyclomine Hydrochloride Tramadol Hydrochloride amp Acetaminopchen Capsules Spas B. No.NC2409 MFG. Jan. 2025 Exp. 2026 of total 25 strips (25 x 24 = 600 capsules) were recovered. The total weight of the recovered 600 capsules is 25 x 13.21 = 330.25 grams. The petitioner is inside jail since the time of his arrest i.e. 31.01.2025.

3. As per status report, on the basis of disclosure statement of petitioner, some other accused were also involved in the case i.e. Harish Saini, Govind Kumar and Joginder Saini @ Sonu, who all three have already been released on bail by this Court, vide order dated 10.02.2026 passed in three separate petitions i.e. CRM-M-22664-2025, CRM-M-30834-2025 and CRM-M-34458-2025.

The order dated 10.02.2026 is produced and taken on record. Office to tag the same at an appropriate place.

4. Learned counsel for the petitioner argues that the quantity of actual salt of *Tramadol* HCL is yet to be ascertained by the Court during the course of trial, and in all likelihood its decision would depend upon the reference made by the Apex Court itself in the case of **Hira Singh vs. Union of India, 2020(2) RCR (Crl.) 523**, which is still pending consideration.

Counsel further argues that the petitioner, who is of the age of 32 years, was never found indulged in any similar activities involving under the NDPS Act. He, thus, submits that allegations are yet to be ascertained by the trial Court and the burden for proving the same is heavily upon the Investigating Agency.

With the help of miscellaneous (zimni) orders, produced during the course of arguments, counsel submits that charges were framed on 23.07.2025, however, despite granting several opportunities, none of the prosecution witnesses, who mostly are official witnesses, has come forward to depose in the case. Therefore, due to the fault of the prosecution agency, the personal liberty of petitioner cannot be continued to curtail by keeping the petitioner inside the jail. Thus, counsel prays for grant of bail to the petitioner.

5. On the other hand, learned Additional Advocate General, Haryana, on instructions from SI Radhey Shyam, submits that the recovered capsules falls within the purview of 'commercial quantity', although there is no other instance of petitioner having been involved in any other case under NDPS Act.

Learned State counsel also confirms the factum of release of other co-accused on bail by this Court.

6. I have heard learned counsel for the parties and perused the paper-book along with the documents appended thereto including the order granting bail to co-accused Harish Saini, Govind Kumar and Joginder Saini @ Sonu.

7. It is not in dispute that none of the prosecution witnesses has appeared till date to depose in the Court despite granting several opportunities. Even learned State counsel is unable to explain the reason for non appearance of the prosecution witnesses in the present case. This Court does realize that in most of the cases, where fate of the trial depends upon the official witnesses that too of the police department, delay in trial is being caused by the police officials not appearing before the Courts for one reason or the other/reasons best known to them and they have not been

appearing despite granting several opportunities, whereas this Court is of the strong view that the official witnesses are expected to appear as and when information in that regard is received by them.

8. In the present case, charges were framed on 23.07.2025 and thereupon none of the prosecution witnesses appeared on 25.08.2025, 06.10.2025, 14.11.2025, 12.01.2026 and again on 23.02.2026 and next date fixed is 13.04.2026. Thus, under these compelling circumstances, that too because of the fault of the prosecution witnesses, this Court is constrained to allow the present petition. Accordingly, without expressing any opinion on the merits of the case, **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/Illaq Magistrate/ Duty Magistrate concerned, if not required in any other case.

9. Any of the discussion done and recorded hereabove, 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.

10. It is further made clear that if, in future, the petitioner is found to be directly involved in similar activities, the prosecution would be at liberty to seek cancellation of bail.

11. Petition stands disposed of.

12. However, before parting with the order, it is observed that all such prosecution witnesses, who were having knowledge of their appearance to depose, have not appeared despite knowledge of their appearance, the Director General of Police, Haryana, is required to pass strict instructions for

appearance of the official witnesses before the Court where they are expected to depose in time and is directed to take appropriate steps in the matter and then to inform this Court within two months from today.

(SANJAY VASHISTH)
JUDGE

07.04.2026
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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No