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

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Kalu

...Petitioner

V/s

The State of Punjab

...Respondent

Date of decision: 12.02.2026**Date of Uploading : 12.02.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Ms. B.K. Bhangu, Advocate for
Mr. Angrej Singh, Advocate for the petitioner.
Mr. Adhiraj Singh Thind, AAG Punjab.

SUMEET GOEL, J. (Oral)

1. Present fourth petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner, in case bearing FIR No.171 dated 26.06.2024, registered for the offences punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Kapurthala, District Kapurthala.

2. The gravamen of the FIR in question pertains to an incident which occurred on 26.06.2024 wherein the petitioner was apprehended by the Police of being involved in an FIR pertaining to NDPS Act involving alleged recovery of 110 grams of intoxicant powder without permit or licence.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 26.06.2024. Learned counsel iterated that



earlier, vide order dated 12.08.2024, the petitioner was accorded the benefit of interim regular bail till the report of Chemical Examiner was received. Thereafter, the challan was presented alongwith the FSL report. As per the said FSL report, the substance allegedly recovered from the petitioner is 110 grams of Alprazolam which falls under the category of commercial quantity whereinafter, the bail of the petitioner was canceled and he was taken back into custody. Learned counsel has further submitted that mandatory provisions of the NDPS Act have not scrupulously been complied with, and thus, the prosecution case suffers from inherent defects. Learned counsel has argued that the petitioner has been falsely implicated into the FIR in question. According to learned counsel, the contraband alleged to have been recovered from the petitioner is of 110 grams of Alprazolam, which is marginally above the threshold limit of non-commercial quantity specified in the notification issued under the NDPS Act. Learned counsel has further submitted that the petitioner has suffered incarceration for more than 01 years and 06 months. On the strength of these submissions, the grant of regular bail is entreated for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, thus, the petitioner does not deserve the concession of the regular bail. Learned State counsel has iterated that the instant bail plea is barred by the rigors of Section 37 of the NDPS Act, and thus, the same ought to be dismissed. Learned State counsel seeks to place on record custody certificate dated 11.02.2026, in the Court today, which is taken on record.



5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. The petitioner was arrested on 26.06.2024, whereinafter, investigation was carried out and challan has been presented on 18.09.2024. Total 10 prosecution witnesses have been cited, out of which, 02 have been examined fully. Indubitably, the conclusion of the trial will take long. It is not in dispute that the contraband allegedly recovered from the petitioner is 110 grams of Alprazolam, which is marginally above the threshold limit of non-commercial quantity. Reliance in this regard can be placed upon the orders passed by this Court in ***Rajdev Giri versus State of Punjab***, CRM-M-44898-2019, decided on 18.09.2020; ***Rahish versus State of Haryana***, CRM-M-36498-2020, decided on 11.11.2020; ***Karambir versus State of Haryana***, CRM-M-31820-2019, decided on 28.08.2019; ***Jagjit Singh @ Jagga Gill versus State of Punjab***, CRM-M-41242-2019, decided on 27.02.2020 and ***Baljit Kaur @ Baljito versus State of Punjab***, CRM-M-12849-2020, decided on 04.06.2020, wherein accused were enlarged on bail in cases where the alleged recovery was slightly more than the quantity prescribed for commercial category under the NDPS Act. The rival contentions raised at Bar give rise to debatable issues, which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.



6.1. As per custody certificate dated 11.02.2026 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 06 months and 15 days. Further, as per the said custody certificate the petitioner is stated to be involved in other FIR(s). However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586***; a Division Bench judgment of the Hon'ble Calcutta High Court in case of ***Sridhar Das v. State, 1998 (2) RCR (Criminal) 477*** & judgments of this Court in CRM-M No.38822-2022 titled as ***Akhilesh Singh v. State of Haryana***, decided on 29.11.2021, and ***Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191***.

In this view of the matter, the rigor imposed under Section 37 of the NDPS Act stands diluted in light of the Article 21 of the Constitution of India.

6.2. Indubitably, the present petition is the fourth attempt by the petitioner to secure regular bail. Though, the first, second and third petitions filed by the petitioner were for grant of regular bail, but since learned counsel for the petitioner had not pressed the plea for grant of regular bail, the same were dismissed as withdrawn as such. Concededly, after the dismissal of the aforesaid petitions, a period of one year has already elapsed.



Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail, if not required in any other case, on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned trial Court/Duty Magistrate, the petitioner shall remain bound by the following conditions:

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.
- (viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after his being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned trial Court/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the



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State/complainant shall be at liberty to move cancellation of bail of the petitioner.

- 9. Ordered accordingly.
- 10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
- 11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

February 12, 2026
Ajay

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