2025:PHHC:057966

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

(I) **CRM-M-51040-2024 (O&M)**
Date of decision: 03.05.2025

Rakesh Bansal ...Petitioner

Versus

State of Punjab ...Respondent

(II) **CRM-M-36969-2024 (O&M)**

Gaurav Arora ...Petitioner

Versus

State of Punjab ...Respondent

(III) **CRM-M-13577-2025 (O&M)**

Jatinder Kumar Arora @ Vicky ...Petitioner

Versus

State of Punjab ...Respondent

(IV) **CRM-M-13805-2025 (O&M)**

Zulfikar Ali @ Zulfi ...Petitioner

Versus

State of Punjab ...Respondent

(V) **CRM-M-15330-2025 (O&M)**

Narinder Khanna @ Bunty ...Petitioner

Versus

State of Punjab ...Respondent

(VI) **CRM-M-18377-2025 (O&M)**

Sachin Sharma ...Petitioner

Versus

State of Punjab ...Respondent

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2025.05.05 18:12
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(VII) **CRM-M-52379-2024 (O&M)**

Rajesh Sachdeva @ Harish Bhatia ...Petitioner

Versus

State of Punjab ...Respondent

(VIII) **CRM-M-5155-2025 (O&M)**

Ferozedeen @ Fauji ...Petitioner

Versus

State of Punjab ...Respondent

(IX) **CRM-M-62490-2024 (O&M)**

Manpreet Singh ...Petitioner

Versus

State of Punjab ...Respondent

(X) **CRM-M-16454-2025 (O&M)**

Ravinder Singh @ Binda ...Petitioner

Versus

State of Punjab ...Respondent

(XI) **CRM-M-16419-2025 (O&M)**

Aman Singla ...Petitioner

Versus

State of Punjab ...Respondent

(XII) **CRM-M-16886-2025 (O&M)**

Deepak Arora ...Petitioner

Versus

State of Punjab ...Respondent

(XIII) **CRM-M-17466-2025 (O&M)**

Rajesh Kumar @ Rakesh Kumar @Raju ...Petitioner

Versus

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2025.05.05 18:12
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State of Punjab ...Respondent

(XIV) **CRM-M-18529-2025 (O&M)**

Varinder Kumar ...Petitioner

Versus

State of Punjab ...Respondent

(XV) **CRM-M-19080-2025 (O&M)**

Lovepreet Singh @ Lavi ...Petitioner

Versus

State of Punjab ...Respondent

(XVI) **CRM-M-19560-2025 (O&M)**

Bittu Ram ...Petitioner

Versus

State of Punjab ...Respondent

(XVII) **CRM-M-20431-2025 (O&M)**

Satveer Singh @ Satti ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Vinod Ghai, Senior Advocate assisted by
Mr. L.S. Sekhon, Mr.R.S.Bagga & Mr. Arnav Ghai, Advocates
for the petitioner in CRM-M-51040-2024.

Mr. G.S.Aulakh, Advocate for
Mr. Hitesh Malik, Advocate for the petitioner
in CRM-M-36969-2024.

Dr. S.K. Passi, Advocate for the petitioner(s)
in CRM-M Nos.52379, 13805,19080 & 17466 of 2025.

Mr. L.S. Sekhon, Advocate & Mr. Sajanpreet Singh, Advocate for
the petitioner(s)in CRM-M-62490-2024 & CRM-M-20431-2025.

Mr. Arjunveer Sharma & Mr. Gaurav Goyal, Advocates
for the petitioner in CRM-M Nos.5155, 13577,
16419 & 19560 of 2025.

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Ms. Manpreet Ghuman, Advocate for the petitioner
in CRM-M No.16454 of 2025.

Mr. Jashandeep Singh Sandhu, Advocate for the petitioner
in CRM-M No.15330 of 2025.

Mr. P.S.Dhaliwal, Advocate for the petitioner
in CRM-M No.18377 of 2025.

Mr. Raj Kumar Gupta, Advocate for the petitioner
in CRM-M No.16886 of 2025.

Mr. Abdul Aziz, Advocate for the petitioner
in CRM-M No.18529 of 2025.

Mr. T.P.S. Walia, AAG, Punjab for the respondent.

MAHABIR SINGH SINDHU, J.

This order shall dispose off afore-mentioned 17 petitions seeking bail pending trial in FIR No.72 dated 23.05.2020, under Sections 21, 22, 25 & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station, Mehal Kalan, District Barnala.

(2) Above FIR was registered on the basis of secret information received on 23.05.2020 at 09:30 PM by police with the allegation that Lovepreet Singh @ Lovy s/o Ajmer Singh; Ravinder Singh @ Binda s/o Nachhattar Singh, residents of Divana; Satvir Singh @ Satti s/o Gurmeet Singh, r/o Chhiniwal Khurd; Balwinder Singh @ Nikka s/o Gurjant Singh, r/o Bakhatgarh and Ravi, r/o Chakkar, in connivance with each other, have formed a racket; engaged in procuring intoxicant tablets & narcotic substance from outside the State and supplying the same in Tallewal, Mehal Kalan and nearby villages to the persons who are involved in such like activities. Also alleged that all of them were seen roaming in Verna Car bearing registration No.PB11-AY-1700 (white colour) around Mehal Kalan Town and they are likely to supply the same in Mehal Kalan Town and nearby areas. If a raid is conducted, all of them can be nabbed along

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2025:PHHC:057966

with contraband. The information was found to be credible and as a result thereof, the above FIR was registered.

(3) **CONTENTIONS ON BEHALF OF PETITIONERS**

(I) CRM-M-51040-2024 (RAKESH BANSAL)

(i) Contends that petitioner has been falsely implicated in the present case. Also contends that he is neither named in the FIR (*supra*); nor any recovery has been effected from him.

(ii) Further contends that petitioner was nominated on the basis of disclosure made by co-accused Jatinder Kumar @ Vicky on 26.07.2020 and was arrested on 22.01.2024 i.e. after a period of four years, for the reasons best known to the prosecution.

(iii) Vehemently contends that petitioner is one of the Directors of Company, namely, Ridley Life Science Private Limited (for short "RLSP Ltd.") which was authorised to manufacture drugs other than those specified in Schedules C and C(1) to the Drugs Rules, 1945 on the premises situated at D-1651 DSIIDC, Industrial Complex, Narela, Delhi-110040 vide licence No. 1931 dated 01.06.2009 (A-1 colly.) which was renewed from time to time uptill 31.05.2024; thus RLSP Ltd. was well within its right to manufacture the drugs in question.

(iv) Again contends that there is no document on record to show that petitioner had ever sold any drug manufactured by his company i.e. RLSP Ltd. in the State of Punjab; rather the same were sold in the State of Uttar Pradesh where the drugs in question are permissible for sale.

(v) While referring to ***Rabi Prakash Versus State of Odisha, 2023 SCC Online SC 1109,*** it is contended that prolonged incarceration militates against most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, conditional liberty must override statutory embargo

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2025.05.05 18:12
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created under Section 37(1)(b)(ii) of the NDPS Act. He further relied upon ***Shince babu versus State of Kerala SLP (Crl.) No. 16642/2023*** and ***Mahendra versus The State of Rajasthan SLP (Crl.) No. 2599/2024*** wherein, petitioner(s) were granted bail by relaxing the rigors of Section 37 of NDPS Act in case of long incarceration.

(vi) Again contends that in view of the judgment of Hon'ble the Supreme Court passed in case titled as ***Tofan Singh versus State of Tamil Nadu, SCC (2021) 4 SCC 1*** mere disclosure would not be the basis to fasten any criminal liability upon the petitioner, as the disclosure has no evidentiary value in the eyes of law.

(vii) Lastly contended that petitioner has been arrested after a gap of four years; therefore, he is facing a separate *de novo* trial in which although, charges have been framed, but out of total 160 prosecution witnesses, only 05 have been examined; hence conclusion of trial will take sufficient long time and no useful purpose will be served by keeping the petitioner behind bars for such a long period.

(II) CRM-M-36969-2024 (GAURAV ARORA)

(i) Contends that petitioner was not named in the FIR. He was nominated as an accused on the basis of disclosure made by co-accused Jitender Kumar on 26.07.2020.

(ii) Also contends that petitioner has been falsely implicated in the present petition. In fact, he is a Chemical Engineer holding a degree in M.Sc International Business. He is the Director of one pharmaceutical company, namely, "M/s Neutec Health care Private Ltd." incorporated on 09.09.2010. Petitioner is a licenced manufacturer of various medicines, including psychotropic substances.

SANJAY
2025.05.05 18:12
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2025:PHHC:057966

(iii) Vehemently contends that in any case, petitioner cannot be prosecuted under the NDPS Act. If there is any violation at all, the offence falls within the ambit of the Drugs & Cosmetics Act, 1940 (for short 'Drugs Act')

(iv) Further contends that on 26.08.2020, a team of SIT raided the house of petitioner i.e. E-34, Rajouri Garden, New Delhi and arrested him along with his father, namely, Krishan Kumar Arora, without disclosing any reasons, whatsoever. Also contends that petitioner as well as his father were taken from Delhi to Barnala where they obtained their remand from the Court of competent jurisdiction, which was got extended uptil 07.09.2020.

(III) CRM-M-13577-2025 (JITENDER KUMAR ARORA @ VICKY)

(i) Contends that petitioner was not named in the FIR. Also, he was never named by any of the co-accused who were arrested on the spot; rather during investigation, was nominated on 14.07.2020 as an accused on the basis of disclosure made by one of the co-accused Raju Sachdeva @ Harish Bhatia and such type of evidence is inadmissible in view of the law laid down by Hon'ble the Supreme Court in ***"Tofan Singh's case (supra)".***

(ii) Again contends that on 25.07.2020 i.e. after 2 months of registration of FIR, police party proceeded from Barnala to Agra and petitioner was arrested. Also contends that Rs. 1,720 and one mobile phone were recovered from his personal search. Thereafter, he was brought to Barnala without obtaining any transit remand.

(iii) Yet again contends that father of petitioner is having a valid license issued by the competent authority for running a Chemist Shop; the entire drugs, recovered from the petitioner, were purchased against proper bills under the name and style of M/s Krishna Agency; but the police completely ignored the

SANJAY
2025.05.05 18:12
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2025:PHHC:057966

material at the time of alleged recovery; hence, the entire prosecution case is vitiated.

(iv) Further contends that petitioner was not found in conscious possession of the alleged contraband inasmuch as the keys of godown were lying in the possession of his father.

(IV) CRM-M-13805-2025 (ZULFIKAR ALI @ ZULFI)

(i) Contends that petitioner was not named in the FIR.; rather nominated on 26.05.2020 on the basis of disclosure made by co-accused, namely, Balwinder Singh @ Nikka who were arrested on the spot.

(ii) Also contends that petitioner is running a wholesale Chemist shop under the name and style of M/s Ali Medicos, Malerkotla, District Sangrur for which he is holding a valid chemist licence 20B-PB-SG2-132087 and 21B-PB-SG2-132088 issued on 22.03.2018 valid uptil 21.03.2023 under the provisions of Drugs Act.

(V) CRM-M-15330-2025 (NARINDER KHANNA @ BUNTY)

(i) Contends that petitioner was not named in the FIR; rather nominated on 18.07.2020 on the basis of disclosure made by co-accused, namely, Sachin Sharma and was arrested on the same day.

(ii) Also contends that petitioner is running a Chemist shop under the name and style M/s Om Pharma, for which he is holding a chemist licence No. 142841 & 142842 issued on 03.04.2019 valid uptil 02.04.2024 under the provisions of Drugs Act.

(iii) Further contends that petitioner was not found in conscious possession of the alleged contraband and mandatory provisions under Sections 42, 50 and 52 of NDPS Act have not been complied with.

SANJAY
2025.05.05 18:12
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2025:PHHC:057966

(VI) CRM-M-18377-2025 (SACHIN SHARMA)

(i) Contends that petitioner was not named in the FIR; rather nominated on 14.07.2020 on the basis of disclosure made by co-accused, namely, Raju Sachdeva @ Harish Bhatia; thereafter, he was arrested after four days i.e. on 18.07.2020 from District Sonepat.

(ii) Also contends that initially petitioner was taken from Sonepat to Barnala, where no disclosure statement was recorded. Subsequently without assigning any reason, he was then taken to Amritsar and there his statement was recorded. In this regard, neither any warrants were obtained from Magistrate at Barnala; nor any DDR was recorded at Amritsar in the police station concerned.

(iii) Further contends that petitioner was not found in conscious possession of the alleged contraband and mandatory provisions under Sections 42, 50 and 52 of NDPS Act have not been complied with.

(VII) CRM-M-52379-2024 (RAJU SACHDEVA @ HARISH BHATIA)

(i) Contends that petitioner was not named in the FIR; rather was nominated on the basis of disclosure made by co-accused Zulfikar @ Zulfi on 22.06.2020. Thereafter, he was arrested on 10.07.2020 from West Bengal.

(ii) Also contends that petitioner is doing business of selling shoes in wholesale market in West Bengal. No recovery was effected from his conscious possession; rather the alleged contraband was recovered from one rented accommodation in Amritsar.

(VIII) CRM-M-5155-2025 (FEROZDEEN @ FAUJI)

(i) Contends that petitioner was not named in the FIR; rather he was arrayed as an accused merely on the ground that he being owner of the Verna car

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2025.05.05 18:12
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bearing registration No. PB-11-AY-1700, which was used by other co-accused for selling the alleged contraband.

(ii) Again contends that petitioner was arrested on 05.02.2021 by way of production warrants as he was already in judicial custody in another FIR No. 85 Dated 04.12.2020 registered at Police Station Tallewal under Section 22 and 29 of NDPS Act.

(iii) While referring to ***Dheeraj Kumar Shukla versus State of Uttar Pradesh, SLP(Crl.) No. 6690 of 2022,*** it is contended that in the absence of criminal antecedents coupled with prolonged incarceration, especially when trial is yet to commence, the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act can be dispensed with.

(IX) CRM-M-62490-2024 (MANPREET SINGH)

(i) Contends that petitioner was not named in the FIR; rather nominated on 01.06.2020 on the basis of disclosure made by co-accused, namely, Zulfikar @ Zulfi; thereafter, he was arrested after two days i.e. on 03.06.2020.

(ii) Further contends that petitioner was not found in conscious possession of the alleged contraband and mandatory provisions under Sections 42, 50 and 52 of NDPS Act have not been complied with.

(X) CRM-M-16454-2025 (RAVINDER SINGH @ BINDA)

(i) Contends that petitioner has been falsely implicated in the present case. Also contends no recovery has been effected from his conscious possession.

(ii) Again contends that petitioner is working as a caterer (Halwai), and he is a resident of Uttar Pradesh, hence, he has no connection with any of the co-accused.

SANJAY
2025.05.05 18:12
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(iii) Further contends that mandatory provisions of Sections 50 and 51 of NDPS Act have not been complied with inasmuch as none of the independent witnesses were joined during recovery proceedings.

(XI) CRM-M-16419-2025 (AMAN SINGLA)

(i) Contends that petitioner was not named in the FIR; rather nominated on 01.06.2020 on the basis of disclosure made by co-accused, namely, Zulfikar @ Zulfi; thereafter, he was arrested on the very next day i.e. on 02.06.2020.

(ii) Also contends that petitioner was neither driver; nor owner of the car i.e. i-20 bearing registration no. PB-19-R-8910 from where the alleged contraband was recovered.

(iii) Again contends that alleged contraband was not recovered from the conscious possession of the petitioner; rather the same was recovered from the car of co-accused, namely, Bittu Ram.

(iv) While referring to ***Dheeraj Kumar Shukla's case (supra),*** it is contended that in the absence of criminal antecedents coupled with prolonged incarceration, especially when trial is yet to commence, the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act can be dispensed with.

(XII) CRM-M-16886-2025 (DEEPAK ARORA)

(i) Contends that petitioner has been falsely implicated in the present case. Also contends that alleged recovery has been planted against the petitioner.

(ii) Further contends that the place of recovery i.e. godown was never possessed by the petitioner; rather his signatures were obtained on blank papers while he was in custody and the papers were later on converted into rent agreement of the said godown.

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2025.05.05 18:12
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(XIII) CRM-M-17466-2025 (RAJESH KUMAR @ RAKESH KUMAR @RAJU)

(i) Contends that petitioner was not named in the FIR; rather nominated on the basis of disclosure made by co-accused, namely, Narinder Khanna ; thereafter, he was arrested on the very next day i.e. on 19.07.2020.

(ii) Again contends that petitioner is partner in one Transport company namely, SBC Transporter, Amritsar and apart that, there is no other material regarding his complicity; hence, no offence is made out against him.

(iii) Also contends that false recovery has been implanted upon the petitioner and intoxicant tablets and capsules were alleged to be recovered from the premises which does not belong to petitioner.

(XIV) CRM-M-18529-2025 (VARINDER KUMAR)

(i) Contends that petitioner was not named in the FIR; rather nominated on 18.07.2020 on the basis of disclosure made by co-accused, namely, Rajesh Kumar @ Raju; thereafter, he was arrested on the very next day i.e. on 19.07.2020.

(ii) Further contends that false recovery has been implanted upon the petitioner and apart that, there is no other material regarding his complicity.

(iii) Again contends that petitioner was not found in conscious possession of the alleged contraband and mandatory provisions under Sections 42, 50 and 52 of NDPS Act have not been complied with.

(XV) CRM-M-19080 -2025 (LOVEPREET SINGH @ LAVI)

(i) Contends that petitioner has been falsely implicated in the present case and has nothing to do with the alleged commission of crime.

(ii) Further contends that petitioner was sitting at the rear left seat of Verna Car bearing registration No. PB-11-AY-1700; whereas the alleged

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2025.05.05 18:12
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recovery of contraband was effected from co-accused Ravinder Singh @ Bhinda who was sitting at the conductor seat of the car.

(XVI) CRM-M-19560 -2025 (BITTU RAM)

(i) Contends that petitioner was not named in the FIR; rather nominated on the basis of disclosure made by co-accused Zulfikar @ Zulfi on 01.06.2020 and was arrested on the very next day i.e. 02.06.2025.

(ii) While referring to ***Dheeraj Kumar Shukla's case (supra),*** it is contended that in the absence of criminal antecedents coupled with prolonged incarceration, especially when trial is yet to commence, the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act can de dispensed with.

(XVII) CRM-M-20431-2025 (SATVEER SINGH @ SATTI)

(i) Contends that petitioner has been falsely implicated in the present case and has nothing to do with the alleged commission of crime.

(ii) Again contends that petitioner was not found in conscious possession of the alleged contraband and mandatory provisions under Sections 42, 50 and 52 of NDPS Act have not been complied with.

On behalf of all the petitioners, (except Rakesh Bansal), it is commonly contended that, they are in judicial custody for more than 4 years; out of 27 accused, 5 are yet to be apprehended; there are total 160 prosecution witnesses & only 54 have been examined till date, 46 have been given up, 3 have died and 57 are yet to be examined; thus, conclusion of trial will take sufficient long time and as such, further incarceration of the petitioners would not serve any purpose.

(4) *Per contra*, learned State Counsel, while opposing the prayer, submits that all the petitioners are actively involved in

SANJAY
2025.05.05 18:12
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manufacturing/supplying/transporting illegal drugs in connivance with each other; hence, their complicity is well apparent in the present case.

4.1 Also submits that all the accused are running a big racket and there is huge recovery of intoxicant tablets & capsules (more than 3 crore) apart from drug money (more than Rs.9 lakh) as well as six Cars; 10 mobile phones and more than 15 Kg. of broken loose intoxicant tablets.

4.2 Further submits that all the accused have been charged under the NDPS Act as well as Indian Penal Code,1860 (*for short 'IPC'*) for using false & fabricated bills while manufacturing/supplying/transporting/selling the contraband.

4.3 Vehemently submits that, after making strenuous efforts, Police apprehended the petitioners and if they are released on bail, they will hamper the trial and tamper with the evidence. Also submits that five more accused are yet to be arrested.

4.4 Lastly submits that all the petitioners except two, namely, Sachin Sharma and Deepak Arora are involved in other cases as well; therefore, in view of their criminal antecedents, they do not deserve the concession of bail.

(5) Heard learned counsel for the parties and perused the paper-book.

(6) Records reveal that on 23.05.2020, while relying upon a secret information, Police party reached Village Tallewal, Mehal Kalan, District Barnala where one Verna Car bearing No. PB-11-AY-1700 was found parked. Love Preet Singh @ Lavi; Ravinder Singh @ Binda; Satvinder Singh @ Satti and Balwinder Singh @ Nikka were sitting in the said car. On search, a huge quantity of contraband i.e. 2500 tablets of Clovidol-100 SR, manufactured by Neutec Healthcare Pvt. Ltd., was recovered from them.

SANJAY
2025.05.05 18:12
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(7) After complying with the necessary formalities, they were taken into police custody. On the disclosure made by said Balwinder Singh @ Nikka, Zulfikar Ali @ Zulfi was nominated as an accused in the present case on 26.05.2020.

(8) On the disclosure of Zulfikar Ali @ Zulfi, four more persons i.e. Bittu Ram, Aman Singla, Manpreet Singh & Ferozedeen @ Fauji were nominated as accused on 01.06.2020.

(9) It further transpires that on the basis of disclosure(s) of co-accused Manpreet Singh, Sachin Sharma, Narinder Khanna, Rajesh Kumar @ Rakesh Kumar @ Raju and Jitender Kumar, the remaining accused were nominated and arrested in the present case. The following chart would depict the recovery of alleged contraband from each of the accused:-

Sr. No.	Name of accused	Recovery
1.	Love Preet Singh @ Lavi; Ravinder Singh @ Binda; Satvinder Singh @ Satti and Balwinder Singh @ Nikka	• 2,500 tablets of Clovidol-100 SR
2.	Balwinder Singh @ Nikka	(i) 2,50,000 lakh tablets of Clovidol-100 SR. (ii) Drug money amounting to Rs. 4 lakh.
3.	Zulfikar Ali @ Zulfi	• 12,000 tablets Clovidol-100 SR
4.	Bittu Ram & Aman Singla	(i) One i20 CAR (ii) 10,500 TABELTS WERE RECOVERED
5.	Manpreet Singh	• 5,000 intoxicant tablets
6.	Raju Sachdeva @ Harish Bhatia	(i) 97,600 intoxicant capsules from Uttar Pradesh

SANJAY
2025.05.05 18:12
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2025:PHHC:057966

		(ii) 20,000 intoxicant tablets (iii) Drug Money amounting to Rs. 85,000.
7.	Sachin Sharma	(i) 1,00,000 intoxicant tablets (ii) Drug money amounting to Rs. 4,50,000 from Amritsar.
8.	Narinder Khanna	(i) 6,40,000 intoxicant tablets (ii) 1,60,000 intoxicant capsules
9.	Varinder Kumar	• 3,200 intoxicant tablets
10.	Amit Kumar @ Rajan	(i) 5,17,700 intoxicant tablets and capsules (ii) one HONDA CITY CAR
11.	Deepak Arora	• 75,000 intoxicant tablets
12.	Rajesh Kumar @ Rakesh Kumar @ Raju	• 50,000 intoxicant tablets
13.	Jitender Kumar Arora @ Vicky	(i) 1,20,454 intoxicant tablets (ii) 34,704 intoxicant capsules from Agra (iii) 11,800 loose tablets. (iv) 10 mobile phones
14.	Gaurav Arora	(i) 1,81,06,950 intoxicant tablets (ii) 1,03,88,892 intoxicant capsules (iii) 15 kgs 70 gms. broken loose tablets.
15.	Krishan Kumar Arora	• One Honda City Car bearing No. MH-02-EE-4197.

(10) Before proceeding further, it is necessary to recapitulate provisions of Section 37 of the NDPS Act which govern the field for grant of bail where the alleged contraband is commercial in nature. Section 37 is extracted here as under:-

Section 37 of the NDPS Act – Offences to be cognizable and non-bailable.—

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2025.05.05 18:12
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> *(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—*
>
> *(a) every offence punishable under this Act shall be cognizable;*
>
> *(b) no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—*
>
> *(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and*
>
> *(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.*
>
> *(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail."*

Aforesaid Section is in the nature of non-obstante clause to Code of Criminal Procedure, 1973 including Section 439 thereof {now Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 *(for short 'BNSS')*} and which, *inter alia*, lays down that no person accused of an offence involving commercial quantity shall be released on bail unless the Court is satisfied that there are "reasonable grounds" for believing that he is not guilty of such an offence and not likely to commit any offence while on bail.

(11) Both the above conditions are cumulative and not alternative. The law is well settled that requirement of satisfaction in terms of Section 37 (1)(b)(ii) (*ibid*) regarding the accused being not guilty is to be recorded on the basis of reasonable grounds and that should be more than *prima facie*.

(12) The twin-test stipulated under Section 37 of the NDPS Act has been considered by Hon'ble the Supreme Court in ***'Union of India Versus Rattan***

SANJAY
2025.05.05 18:12
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Malik Alias Habul', (2009) 2 SCC 624' and para Nos.12 & 13 of the same being relevant read as under:-

> *"12. It is plain from a bare reading of the non-obstante clause in Section 37 of the NDPS Act and sub-section (2) thereof that the power to grant bail to a person accused of having committed offence under the NDPS Act is not only subject to the limitations imposed under Section 439 of the Code of Criminal Procedure, 1973, it is also subject to the restrictions placed by clause (b) of sub- section (1) of Section 37 of the NDPS Act. Apart from giving an opportunity to the Public Prosecutor to oppose the application for such release, the other twin conditions viz; (i) the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence; and (ii) that he is not likely to commit any offence while on bail, have to be satisfied. It is manifest that the conditions are cumulative and not alternative. The satisfaction contemplated regarding the accused being not guilty, has to be based on "reasonable grounds".*
>
> *13. The expression "reasonable grounds" has not been defined in the said Act but means something more than prima facie grounds. It connotes substantial probable causes for believing that the accused is not guilty of the offence he is charged with. The reasonable belief contemplated in turn, points to existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence (vide Union of India v. Shiv Shanker Kesari). Thus, recording of satisfaction on both the aspects, noted above, is sine qua non for granting of bail under the NDPS Act."*

(13) Again, in ***'Union of India v. Mohd. Nawaz Khan, (2021) 10 SCC 100',*** the same view was reiterated by Hon'ble the Supreme Court as under:-

> *"21. Under Section 37(1)(b)(ii), the limitations on the grant of bail for offences punishable under Sections 19, 24 or 27-A and also for offences involving a commercial quantity are:*
>
> *(i) The Prosecutor must be given an opportunity to oppose the application for bail; and*

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2025.05.05 18:12
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2025:PHHC:057966

(ii) There must exist "reasonable grounds to believe" that : (a) the person is not guilty of such an offence; and (b) he is not likely to commit any offence while on bail.

22. The standard prescribed for the grant of bail is "reasonable ground to believe" that the person is not guilty of the offence. Interpreting the standard of "reasonable grounds to believe", a two-Judge Bench of this Court in Shiv Shanker Kesari, held that : (SCC pp. 801-02, paras 7-8 & 10-11)

> *"7. The expression used in Section 37(1)(b)(ii) is "reasonable grounds". The expression means something more than prima facie grounds. It connotes substantial probable causes for believing that the accused is not guilty of the offence charged and this reasonable belief contemplated in turn points to existence of such facts and circumstances as are sufficient in themselves to justify recording of satisfaction that the accused is not guilty of the offence charged.*
>
> *8. The word "reasonable" has in law the prima facie meaning of reasonable in regard to those circumstances of which the actor, called on to act reasonably, knows or ought to know. It is difficult to give an exact definition of the word "reasonable".*
>
> *'7. … In Stroud's Judicial Dictionary, 4th Edn., p. 2258 states that it would be unreasonable to expect an exact definition of the word "reasonable". Reason varies in its conclusions according to the idiosyncrasy of the individual, and the times and circumstances in which he thinks. The reasoning which built up the old scholastic logic sounds now like the jingling of a child's toy.'*
>
> *10. The word "reasonable" signifies "in accordance with reason". In the ultimate analysis it is a question of fact, whether a particular act is reasonable or not depends on the circumstances in a given situation. (See Municipal Corpn. of Greater Mumbai v. Kamla Mills Ltd. [Municipal Corpn. of Greater Mumbai v. Kamla Mills Ltd., (2003) 6 SCC 315])*
>
> *11. The court while considering the application for bail with reference to Section 37 of the Act is not called upon to record a finding of not guilty. It is for the limited purpose essentially confined to the question of releasing the accused on bail that the court is called upon to see if there are reasonable grounds for believing that the accused is not guilty and records its*

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2025.05.05 18:12
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satisfaction about the existence of such grounds. But the court has not to consider the matter as if it is pronouncing a judgment of acquittal and recording a finding of not guilty."

24. In the present case, the High Court while granting bail to the respondent adverted to two circumstances, namely, (i) absence of recovery of the contraband from the possession of the respondent; and (ii) the wrong name in the endorsement of translation of the statement under Section 67 of the NDPS Act.

25. We shall deal with each of these circumstances in turn. The respondent has been accused of an offence under Section 8 of the NDPS Act, which is punishable under Sections 21, 27-A, 29, 60(3) of the said Act. Section 8 of the Act prohibits a person from possessing any narcotic drug or psychotropic substance. The concept of possession recurs in Sections 20 to 22, which provide for punishment for offences under the Act. In Madan Lal v. State of H.P, this Court held that:-

"19. Whether there was conscious possession has to be determined with reference to the factual backdrop. The facts which can be culled out from the evidence on record are that all the accused persons were travelling in a vehicle and as noted by the trial court they were known to each other and it has not been explained or shown as to how they travelled together from the same destination in a vehicle which was not a public vehicle.

20. Section 20(b) makes possession of contraband articles an offence. Section 20 appears in Chapter IV of the Act which relates to offences for possession of such articles. It is submitted that in order to make the possession illicit, there must be a conscious possession.

21. It is highlighted that unless the possession was coupled with the requisite mental element i.e. conscious possession and not mere custody without awareness of the nature of such possession, Section 20 is not attracted.

22. The expression "possession" is a polymorphous term which assumes different colours in different contexts. It may carry different meanings in contextually different backgrounds. It is impossible, as was observed in Supt. & Remembrancer of Legal Affairs, W.B. v. Anil Kumar Bhunja [Supt. & Remembrancer of Legal Affairs, W.B. v. Anil Kumar Bhunja, (1979) 4 SCC 274 : 1979 SCC (Cri) 1038] to work

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2025.05.05 18:12
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out a completely logical and precise definition of "possession" uniform[ly] applicable to all situations in the context of all statutes.

23. The word "conscious" means awareness about a particular fact. It is a state of mind which is deliberate or intended."

26. Once possession is established, the person who claims that it was not a conscious possession has to establish it, because how he came to be in possession is within his special knowledge. Section 35 of the Act gives a statutory recognition of this position because of the presumption available in law. Similar is the position in terms of Section 54 where also presumption is available to be drawn from possession of illicit articles."

(14) Apart that, the menace of drugs has completely ruined the State of Punjab and which needs to be dealt with sternly. Hon'ble the Supreme Court in '***Parwinder Singh @ Parminder Kumar @ Vicky Vs. State of Punjab',*** SLP (Crl.) 12601-2023, decided on 14.12.2023, has held as under:-

"5. Having heard learned counsel for the parties, we are of the considered view that the parameters of granting bail in a case under special statutes like NDPS Act may not be liberally construed in the instant case. We say so taking notice of the fact that the State of Punjab is reeling under the grip of drug menace. There are several drug lords whose roots are identifiable in the State of Punjab, and who operate in the cross-border drug racketing and organized trafficking of narcotic drugs and psychotropic substances. It is a matter of common knowledge that huge cache of illicit drugs is smuggled across the border. Some local Pharmaceutical Industries, State police officials and other affluent people have been suspected to be involved, at occasions, in international drug trafficking. The drug addiction has posed a serious threat to the once vibrant state of Punjab. The Courts, therefore, ought to be highly circumspect while granting bail, especially to a repeat offender. The appellant, as it seems from the allegations, is a drug peddler and there is every likelihood of his returning to the same illicit trade once he is allowed the privilege of pre-arrest bail."

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2025.05.05 18:12
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(15) A perusal of the testimonies of PWs reveals that complicity of petitioners is well apparent, but this Court refrains itself from the minute evaluation of facts lest it may prejudice the case of either of the parties.

(16) It is worth notice that prosecution has already examined 54 PWs and 46 PWs have been given up, 3 have died and 57 are yet to be examined; thus, trial is going at a reasonable pace. There is no lapse on the part of prosecution.

(17) The judicial pronouncements cited by learned counsel for the petitioners are of no help because they are distinguishable on facts as under:

(i) ***Rabi Prakash's case (supra),*** it was held by Hon'ble the Supreme Court that trial is going at a slow speed as out of 19 PWs, only one had been examined and petitioner was behind bars for more than 3 and half years, whereas in the present case, trial is going at a reasonable pace as 54 PWs have already been examined.

(ii) In ***Shince Babu's case (supra),*** petitioner was granted bail by learned trial Court and thereafter, State filed application for cancellation of bail before High Court. Also on a specific query to the State, it was not disputed that no contraband was recovered from the conscious possession of the petitioner, whereas, in the case in hand, no bail was granted by learned Special Court and alleged contraband was recovered from the conscious possession of petitioner(s).

(iii) In ***Mahendra's case (supra),*** the recovery was not effected from the conscious possession of the accused; therefore, rigors of Section 37 of NDPS Act was relaxed. However, in the present case, alleged contraband was recovered from the conscious possession of petitioner(s).

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(iv) In ***Dheeraj Kumar Shukla's case (supra)***, although, the charges were framed, but the trial had not commenced and the petitioner was behind bars for more than two and a half years. In the present case, the trial has already commenced and 54 PWs have been examined.

(v)In ***Tofan Singh's case (supra),*** conviction was challenged by the appellants therein; but here, it is only a bail application and trial is going at a normal pace.

(18) Although, learned counsel for the petitioner(s) tried to impress upon the Court while citing afore-mentioned judgments that long custody is sufficient to dilute the rigor of twin-test satisfaction; but this Court is not persuaded for the following reasons:-

(i) in an ordinary case, long incarceration may be a ground for bail, but in the present case, recovery alleged against the petitioners is not only commercial; but heavy in nature, including 3,05,72,696 intoxicant tablets and capsules; 15 kg and 70 gms broken lose tablets; drug money amounting to Rs.9,35,000; six vehicles and 10 mobile phones;

(ii) as on today, 54 PWs have already been examined; there is no lapse on the part of prosecution and trial is going on a normal pace;

(iii) even the antecedents of the petitioners are also not clean; rather they are habitual offenders and involved in the following criminal cases:-

RAKESH BANSAL-PETITIONER

Sr. No.	**FIR number and Date**	**Under Section**	**Police Station**	**Status**
1.	344 dt. 13.07.2020	22, 25 & 29 of NDPS Act;	City Barnala	Undertrial

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2025.05.05 18:12
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		Sec. 7 & 13 of PC Act; 465, 467, 468, 471/120-B IPC		
2.	Crl.Com-41336 dt. 2022	18-a(i) & 18(B) of Drugs & Cosmetics Act	Titled as "State through Drug Control Officer, LDH. Vs. Rakesh Bansal, before ld. CJM, Ludhiana	Undertrial
3.	112 dt. 2019	304-A IPC	Narela, Industrial Area, New Delhi	Undertrial

GAURAV ARORA-PETITIONER

Sr. No.	FIR number and Date	Under Section	Police Station	Status
1.	344 dt. 13.07.2020	22 & 29 of NDPS Act	City Barnala	Undertrial
2.	95 dt. 25.02.2020	22, 25, 29 of NDPS Act	City Barnala	Undertrial
3.	02 dt. 01.01.2020	8 & 29 NDPS Act	CBN	Undertrial
4.	277 dt. 29.07.2020	22-C, 27-A NDPS Act	Sadar Fatehabad	Undertrial
5.	08 dt. 01.01.2020	8, 22 & 29 NDPS Act, 120-B IPC	Keshrisinghpur	Undertrial
6.	247 dt. 28.07.2020	22-C, 27-A, 29 NDPS Act	Bhuna	Undertrial
7.	63 dt. 23.03.2019	22, 25, 29 NDPS	Sardulgarh	Undertrial
8.	172 dt. 31.08.2019	22-C, 27-A NDPS Act	Bhattu Kalan	Undertrial
9.	637 dt. 09.11.2015	188, 406, 420 IPC	Sampla	Undertrial

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JITENDER KUMAR ARORA @ VICKY-PETITIONER

Sr. No.	FIR number and Date	Under Section	Police Station	Status
1.	344 dt. 13.07.2020	22 & 29 of NDPS Act	City Barnala	Undertrial

ZULFIQAR ALI @ ZULFI-PETITIONER

Sr. No.	FIR number and Date	Under Section	Police Station	Status
1.	139 dt. 26.05.2019	21 & 29 of NDPS Act	Sadar Dhuri	Undertrial
2.	CC-2233 dt. 01.01.2021	--	--	Undertrial

NARINDER KHANNA @ BUNTY-PETITIONER

Sr. No.	FIR number and Date	Under Section	Police Station	Status
1.	58 dt. 20.03.2013	22 of NDPS Act	City Rajpura	Convicted

RAJU SACHDEVA @ HARISH BHATIA-PETITIONER

Sr. No.	FIR number and Date	Under Section	Police Station	Status
1.	344 dt. 13.07.2020	22 & 29 of NDPS Act	City Barnala	Undertrial
2.	95 dt. 25.02.2020	22, 25, 29 of NDPS Act	City Barnala	Undertrial
3.	33 dt. 12.06.2020	8, 21, 22, 29 & 60 of NDPS Act	NCB, Chd.	Undertrial
4.	VIII/26/DZU dt. 01.01.2020	8, 22 & 29 NDPS Act	Narcotic Cell	Undertrial
5.	88 dt. 12.09.2021	52-A Prisons Act	Cantt. Bathinda	Undertrial

FEROZEDEEN @ FAUJI-PETITIONER

Sr. No.	FIR number and Date	Under Section	Police Station	Status
1.	85 dt. 04.12.2020	22 & 25 of NDPS Act	Tallewal	Undertrial

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2.	104 dt. 09.12. 2020	22, 25, 29 NDPS Act	Sehna	Undertrial
3.	389 dt. 03.09.2022	52-A Prisons Act, 120-B IPC	City Barnala	Undertrial
4.	258 dt.10.06.2022	52-A Prisons Act	City Barnala	Undertrial

MANPREET SINGH-PETITIONER

Sr. No.	FIR number and Date	Under Section	Police Station	Status
1.	482 dt. 30.10.2022	52-A Prisons Act	City Barnala	Convicted

RAVINDER SINGH @ BINDA-PETITIONER

Sr. No.	FIR number and Date	Under Section	Police Station	Status
1.	332 dt. 16.10.2021	52-A Prisons Act	City Faridkot	Undertrial
2.	72 dt. 02.03.2024	52-A Prisons Act	City Barnala	Undertrial

AMAN SINGLA-PETITIONER

Sr. No.	FIR number and Date	Under Section	Police Station	Status
1.	578 dt. 17.12.2023	52-A Prisons Act	City Barnala	Undertrial
2.	214 dt. 14.09.2020	52-A Prisons Act	Sadar Nabha	Convicted
3.	283 dt. 26.06.2023	52-A Prisons Act	City Barnala	Convicted

VARINDER KUMAR-PETITIONER

Sr. No.	FIR number and Date	Under Section	Police Station	Status
1.	366 dt. 01.08.2023	52-A Prisons Act	City Barnala	Undertrial

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LOVEPREET SINGH @ LAVI-PETITIONER

Sr. No.	FIR number and Date	Under Section	Police Station	Status
1.	464 dt. 30.09.2023	52-A Prisons Act	City Barnala	Undertrial
2.	572 dt. 16.12.2023	52-A Prisons Act	City Barnala	Undertrial
3.	38 dt. 16.02.2024	52-A Prisons Act	Sadar Mansa	Undertrial
4.	17 dt. 22.01.2021	52-A Prisons Act	City Faridkot	Undertrial

BITTU RAM-PETITIONER

Sr. No.	FIR number and Date	Under Section	Police Station	Status
1.	77 dt. 2021	52-A Prisons Act	Cantt. Bhatinda	Undertrial
2.	43 dt. 12.09.2019	21 & 29 of NDPS Act	City Barnala	Undertrial

SATVEER SINGH @ SATTI-PETITIONER

Sr. No.	FIR number and Date	Under Section	Police Station	Status
1.	114 dt. 14.04.2021	52-A Prisons Act	Sadar Mansa	Undertrial

(iv) above all, some of the petitioners were arrested from different parts of the country i.e. West Bengal, Uttar Pradesh, Punjab, Rajasthan and New Delhi which is a pointer to the fact that *prima facie*, it is a big racket involved in manufacturing/supplying/selling/ transporting of illegal drugs with a deep rooted conspiracy.

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In view of the above, this Court is not inclined to record the twin-test satisfaction in terms of Section 37(1)(b)(ii) of the NDPS Act in favour of the petitioner(s).

(19) *A fortiori*, learned State counsel has raised an apprehension that in the alleged crime, five more accused i.e., Raminder Singh @ Ravi; Manak Singh Rathore; Gourav Verma; Sourav Verma and Vishal Kumar are yet to be arrested; and in case petitioner(s) is/are released on bail, there is every likelihood that they would evade the process of law and shall hamper the fair trial.

(20) Consequently, there is no option, except to dismiss all the petition(s) 'at this stage'.

(21) Ordered accordingly.

(22) Interim order(s), in respective case(s), extended from time to time, shall come to an end, automatically.

(23) However, keeping in view the custody of petitioner(s), learned Special Court is requested to proceed in the matter expeditiously and to avoid unwarranted adjournment(s) to either of the parties.

(24) The above observations be not construed as an expression of opinion on merits of the present case in any manner.

Pending criminal misc. application(s), if any, shall also stand disposed off.

03.05.2025 **(MAHABIR SINGH SINDHU)**
SN **JUDGE**

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

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