

HIGH COURT OF PUNJAB AND HARYANA

Bench: JUSTICE ANOOP CHITKARA

Date of Decision: 16 October 2023

CRM-M-32815-2023 (O&M)

Irfan Khan ... Petitioner(s)

Versus

State of Haryana ...Respondent
(s)

Legislation:

Sections 15(c), 15(3), 18, 25, 27-A, 29, 37, 67 59(2) NDPS Act

Section 439 CrPC

Subject: The petitioner, Irfan Khan, incarcerated for violating the provisions of the Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act), has approached the Court under Section 439 CrPC seeking bail.

Headnotes:

Narcotics Drugs and Psychotropic Substances Act (NDPS Act) - Bail Application - Accused seeking bail in a case under NDPS Act and other sections - Criminal history of the accused - Co-accused granted bail under similar circumstances - Bail granted with stringent conditions. [Para 1-12]

Conditions for Bail - Stringent conditions imposed to ensure accused's compliance with the law - Surrender of weapons and firearms - Limitations on mobile phone usage - Compliance with undertakings - Firearms to be returned upon acquittal - Possibility of cancellation of bail for subsequent offences. [Para 13-22]

Proportionality of Bail Conditions - Bail conditions must have a nexus to their purpose and be proportional - Balancing the accused's liberty and a fair trial - Conditions to be explained to the accused in a language they understand - Possibility of reduction or modification of bond amount and conditions. [Para 23-26]

Representing Advocates:

Mr. Manvinder Sandhu, Advocate for the petitioner(s).

Mr. Manish Bansal, Sr. DAG, Haryana

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
392	24.12.2020	Uchana, District Jind	15(c), 15(3)/18/25, 27-A/29, 59(2) NDPS Act no.61 of 1985, Sections 7, 7A and 8 of the Prevention of

			Corruption Act, 1988 and Sections 120-B, 192, 196, 201, 202, 203, 217, 409, 166-A IPC.
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1. The petitioner incarcerated for violating the above-mentioned provisions of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act) per the FIR captioned above, has come up before this Court under Section 439 CrPC seeking bail.

2. In paragraph 13 of the bail application, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1	388	18.12.2020	15/61/85 NDPS Act	Uchana, District Jind

However, as per paragraph 18 of the reply, the petitioner has following criminal history.

Sr. No.	FIR No.	Date	Offences	Police Station
1.	371	2012	34 Excise Act	Industrial Area
2.	1	2015	302, 201, 396, 109 IPC and 25 Arms Act	Ratlam (MP)
3.	355	2015	8, 15 NDPS Act	Industrial Area
4	388	2020	15/61/85 NDPS Act	Uchana, District Jind

3. Petitioner's counsel prays for bail by imposing any stringent conditions and states that they would have no objection to the conditions, i.e., surrender of weapons, and are also voluntarily agreeable to the condition that till the conclusion of the trial, the petitioner shall keep only one mobile number, which is mentioned in AADHAR card, if any, and within fifteen days undertakes to disconnect all other mobile numbers. The petitioner contends that the further pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. While opposing the bail, the contention on behalf of the State is that the quantity of contraband involved in the case falls in the commercial category.

REASONING:

5. In Maulana Mohd Amir Rashadi v. State of U.P., (2012) 3 SCC 382, Hon'ble Supreme Court holds,

[10] It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.

6. In Paramjeet Singh v. State of Punjab, **2022:PHHC:003983 [Para 8]**, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

7. Given this, the rigours of Section 37 of the NDPS Act apply in the present case. The burden is on the petitioner to satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act.

8. In Abida v. State of Haryana, **2022:PHHC:058722**, CRM-M-5077-2022, decided on 13-05-2022, this court observed as follows:

[10]. Thus, both the twin conditions need to be satisfied before a person accused of possessing a commercial quantity of drugs or psychotropic substance is to be released on bail. The first condition is to provide an opportunity to the Public Prosecutor, enabling to take a stand on the bail application. The second stipulation is that the Court must be satisfied that reasonable grounds exist for believing that the accused is not guilty of such offence, and is not likely to commit any offence while on bail. If either of these two conditions is not met, the ban on granting bail operates. The expression "reasonable grounds" means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. Even on fulfilling one of the conditions, the reasonable grounds for

believing that the accused is not guilty of such an offence, the Court still cannot give a finding on assurance that the accused is not likely to commit any such crime again. Thus, the grant of bail or denial of bail for possessing commercial quantity would vary from case to case, depending upon its facts.

[30]. From the summary of the law relating to rigors of S.37 of NDPS Act, while granting bail involving commercial quantities, the following fundamental principles emerge:

(a). In case of inconsistency, S. 37 of the NDPS Act prevails over S. 439 CrPC. [Narcotics Control Bureau v Kishan Lal, 1991 (1) SCC 705, Para 6].

(b). The limitations on granting of bail come in only when the question of granting bail arises on merits. [Customs, New Delhi v. Ahmadalieva Nodira, (2004) 3 SCC 549, Para 7].

(c). The provisions of Section 37 of the NDPS Act provide the legal norms which have to be applied in determining whether a case for grant of bail has been made out. [UOI v. Prateek Shukla, **2021:INSC:165 [Para 11]**, (2021) 5 SCC 430, Para 12].

(d). In case the Court proposes to grant bail, two conditions are to be mandatorily satisfied in addition to the standard requirements under the provisions of the CrPC or any other enactment. [Union of India v. Niyazuddin SK &Anr, **2017:INSC:686 [Para 7]**, (2018) 13 SCC 738, Para 7].

(e). Apart from granting opportunity to the Public Prosecutor, the other twin conditions which really have relevance are the Court's satisfaction that there are reasonable grounds for believing that the accused is not guilty of the alleged offence. [N.R. Mon v. Md. Nasimuddin, (2008) 6 SCC 721, Para 9].

(f). The satisfaction contemplated regarding the accused being not guilty has to be more than prima facie grounds, considering substantial probable causes for believing and justifying that the accused is not guilty of the alleged offence. [Customs, New Delhi v. Ahmadalieva Nodira, (2004) 3 SCC 549, Para 7].

(g). The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. [State of Kerala v. Rajesh, **2020:INSC:88 [Para 21]**, AIR 2020 SC 721, Para 21].

(h). Twin conditions of S. 37 are cumulative and not alternative. [Customs, New Delhi v. Ahmadalieva Nodira, (2004) 3 SCC 549, Para 7].

(i). At the bail stage, it is neither necessary nor desirable to weigh the evidence meticulously to arrive at a positive finding as to whether or not the accused has committed an offence under the NDPS Act and

further that he is not likely to commit an offence under the said Act while on bail. [Union of India v. Rattan Mallik @ Habul, (2009) 2 SCC 624, Para 14].

(j). If the statements of the prosecution witnesses are believed, then they would not result in a conviction. [Babua v. State of Orissa, (2001) 2 SCC 566, Para 3].

(k). Merely recording the submissions of the parties does not amount to an indication of a judicial mind or a judicious application of mind. [UOI v. Prateek Shukla, **2021:INSC:165 [Para 11]**, (2021) 5 SCC 430, Para 12].

(l). Section 37 departs from the long-established principle of presumption of innocence in favour of an accused person until proved otherwise. [Union of India v. Sanjeev v. Deshpande, (2014) 13 SCC 1, Para 5].

(m). While considering the application for bail concerning Section 37, the Court is not called upon to record a finding of not guilty. [Union of India v. Shiv Shanker Kesari, (2007) 7 SCC 798, Para 11].

(n). The confessional statement recorded under Section 67 of the NDPS Act is inadmissible in the trial of an offence under the NDPS Act. [Tofan Singh v. State of Tamil Nadu, **2020:INSC:620**, (2021) 4 SCC 1]

(o). In the absence of clarity on the quantitative analysis of the samples from the laboratory, the prosecution cannot be heard to state at this preliminary stage that the accused possessed a commercial quantity of psychotropic substances as contemplated under the NDPS Act. [Bharat Chaudhary v. Union of India, **2021:INSC:877 [Para 11]**, 2021 SCC OnLine SC 1235, Para 10].

(p). When there is evidence of conscious possession of commercial quantity of psychotropic substances, such accused is not entitled to bail given Section 37 of the Act as contemplated under the NDPS Act. [State by (NCB) Bengaluru v. Pallulabid Ahmad Arimutta, **2022:INSC:26 [Para 11]**, 2022 SCC OnLine SC 47, Para 12].

(p). Bail must be subject to stringent conditions. [Sujit Tiwari v. State of Gujarat, **2020:INSC:101 [Para 12]**, 2020 SCC Online SC 84, Para 12].

[31]. Satisfying the fetters of S. 37 of the NDPS Act is candling the infertile eggs. The stringent conditions of section 37 placed in the statute by the legislature do not create a bar for bail for specified categories, including the commercial quantity; however, it creates hurdles by placing a reverse burden on the accused, and once crossed, the rigors no more subsist, and the factors for bail become similar to the bail petitions under general penal statutes like IPC.

9. The facts as extracted from reply dated 21.8.2023 filed by way of affidavit of DSP concerned are that the instant case traces back to 23.12.2020, when Haryana State Narcotic Control Bureau, Madhuban, Karnal received a secret information that one Rakesh resident of Nilokheri, Karnal had been arrested by CIA-I, Jind on 19.12.2020 along with truck, from where the police had recovered poppy husk. The police of CIA-I, Jind had parked the said truck in Police Station, Uchana without showing the contraband on police record and the owner of the truck was trying to take away the poppy husk which was in the truck after taking it on *superdari* from the Court. On receiving this secret information, they claimed to have taken legal sanction and after that, on search of the truck, around 4 quintals of poppy straw was recovered. On inquiry, it was revealed that accused Jagroop and Rakesh were already arrested under Section 15 NDPS Act in FIR No.388 dated 18.12.2020. The investigation further revealed that some police officials connected in the investigation of FIR No.388 dated 18.12.2020 in connivance with each other had kept the truck in *Malkhana* of Police Station Uchana after showing the same to have been recovered from accused Rakesh, but did not show the contraband lying in it. Based on this, the present FIR, captioned above, was registered. The investigation points out towards involvement of 22 persons in the dealings and misappropriating the assets and also selling poppy husk from the first FIR to misappropriating the same. The investigation found involvement of the present petitioner Irfan Khan, who was already in custody in an NDPS case. It would be appropriate to refer to paragraph 19 of the reply, which refers to the evidence collected against the petitioner, the same reads as under:-

“19. That with regards to the complicity of the petitioner- accused Irfan Khan, it is submitted that as per information available with local police, the petitioner, besides the abovementioned two cases (FIR No.388/2020 and 392/2020 PS Uchana) the petitioner is also involved in three other cases. But, in the present case 398 kgs. 150 grams poppy husk was recovered in the Truck No. No.HR-45C9998, which falls under the commercial quantity. The accused Amandeep used to supply narcotic substance in Haryana after getting it loaded from Irfan Khan the petitioner- accused and Mubarik Khan. Further, when on the intervening night of 17/18.12.2020, CIA-I, Jind had apprehended the accused Amandeep, (who is the grand son of the co-accused Badhawa Singh) and his associate Rakesh and Abhishek alias Chhotu with truck No.HR-45C-9998 loaded with poppy husk and Opium in case FIR No.388 dated 18.12.2020 under Sections 15(c),27-A,29 of NDPS Act, P.S. Uchana, then co-accused Badhawa Singh after talking with the relative of his son Gurinder Singh, namely Ram Dass s/o Hari Dass resident of village Asan, District Jind, his associates Sanjay Sarpanch son of Ajit Singh resident of village Amrawali District Jind and his sons Gurinder Singh, Harinder Singh and Sardool Singh got released his grand son Amandeep and his (Amandeep) associate Abhishek alias Chhotu involved in the smuggling of

intoxicant substance recovered in the said case FIR No.388 dated 18.12.2020 under Sections 15(c), 27-A,29 of NDPS Act, P.S. Uchana through Ramdass and Sanjay Sarpanch after the recovery of 414 kgs. poppy husk and by not showing 398 kgs. 150 grams poppy husk and by giving bribe of Rs.10 lacs to ASI Parveen Kumar, first investigating officer of case FIR No.388 dated 18.12.2020 under Sections 15(c), 27-A,29 of NDPS Act, P.S. Uchana. Further, the perusal of CDR of mobile No.82693-78995, used by the petitioner- accused at the time of incident shows that the petitioner- accused had talked 179 times with accused Amandeep, on his mobile No.98967-37306 and 6 time at mobile No. 8396080005 from 1.7.2020 to 19.12.2020, 3 times with accused Rakesh, 2 times with accused Jagroop at his mobile No. 94681-43278 and 48 times at mobile No. 88180-58735 and 9 times at mobile No. 94858-44736; 153 times with accused Subhash @ Golu at his mobile No.62607- 15084; 35 times with accused Gurinder Singh at his mobile No. Adva 93736-95836 and 180 times with accused Sardul Singh at his mobile No. 82950-38774. Besides above the perusal of call details of another mobile No. 62608-08708 of the petitioner for the period from 01.07.2020 to 28.01.2021 reveals that the petitioner -accused had 1006 times talked with accused Mubrak Khan. The accused Jagrup used to transfer money from his bank account or got deposit the money in the bank account of accused Mubrik Khan in Axis Bank Javera, who used to send money to the petitioner-accused. Both the aforementioned mobile numbers of the accused are linked with their bank accounts. But, in the present case 398 kgs150 grams poppy husk was recovered in the Truck No.HR-45C- 9998 which falls under commercial quantity and specifically attract the bar envisaged under section 37(1)(b) of the NDPS Act. Further the petitioner-accused is main supplier. The allegations are serious in nature.”

10. The petitioner claims bail on the parity with co-accused Mubarak Khan, who was in custody since 13.1.2021 and was granted bail vide order dated 6.4.2022 passed in CRM-M-42335 of 2021 *Mubarik Khan Vs. State of Haryana* by a coordinate Bench of this Court. State counsel submitted that the petitioner has criminal history. However, order dated 6.4.2022 reveals that Mubarik Khan had criminal history of two cases. Thus, State could not dispute as to how the petitioner is not entitled to same relief as was given to similarly placed co-accused Mubarik Khan. Once a coordinate Bench of this Court has given bail to similarly placed co-accused, this Court has no other option but to follow the findings of the coordinate Bench.
11. In Tofan Singh v. State of Tamil Nadu, **2020:INSC:620**, the majority view of the larger bench of Hon’ble Supreme Court is that a confessional statement is not admissible in evidence. This view has been followed by Hon’ble Supreme Court in Cr.A 1273 of 2021, Sanjeev Chandra Agarwal v. Union of India, decided on 25th October, 2021. Given the nature of evidence, the previous criminal history of the petitioner is not being considered strictly at this stage as a factor for denying bail.

12. The status report filed by the police reveals that the investigator arraigned the petitioner as an accused based on the disclosure statement of the main accused from whose possession the investigator had recovered the contraband. There is no other evidence collected at this stage to connect the petitioner with the main accused. Thus, there is no justification to deny bail. Consequently, the petitioner has satisfied the first rider of section 37 of the NDPS Act. Regarding the second rider of S. 37, this court will put very stringent conditions in this order to ensure that the petitioner does not repeat the offence.
13. The possibility of the accused influencing the investigation, tampering with evidence, intimidating witnesses, and the likelihood of fleeing justice, can be taken care of by imposing elaborative and stringent conditions. In *Sushila Aggarwal v. State (NCT of Delhi)*, **2020:INSC:106 [Para 92]**, (2020) 5 SCC 1, Para 92, the Constitutional Bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions.
14. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail, subject to the following terms and conditions, which shall be over and above and irrespective of the contents of the form of bail bonds in chapter XXXIII of CrPC, 1973.
15. In *Madhu Tanwar and Anr. v. State of Punjab*, **2023:PHHC:077618 [Para 10, 21]**,
CRM-M-27097-2023, decided on 29-05-2023, this court observed,

[10] The exponential growth in technology and artificial intelligence has transformed identification techniques remarkably. Voice, gait, and facial recognition are incredibly sophisticated and pervasive. Impersonation, as we know it traditionally, has virtually become impossible. Thus, the remedy lies that whenever a judge or an officer believes that the accused might be a flight risk or has a history of fleeing from justice, then in such cases, appropriate conditions can be inserted that all the expenditure that shall be incurred to trace them, shall be recovered from such person, and the State shall have a lien over their assets to make good the loss.

[21] In this era when the knowledge revolution has just begun, to keep pace with exponential and unimaginable changes the technology has brought to human lives, it is only fitting that the dependence of the accused on surety is minimized by giving alternative options. Furthermore, there should be no insistence to provide permanent addresses when people either do not have permanent abodes or intend to re-locate.

16. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above, in the following terms:

(a). Petitioner to furnish personal bond of Rs. Ten thousand (INR 10,000/);
AND

(b) To give one surety of Rs. Twenty-five thousand (INR 25,000/-), to the satisfaction of the concerned court, and in case of non-availability, to any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must satisfy that if the accused fails to appear in court, then such surety can produce the accused before the court.

OR

(b). Petitioner to hand over to the concerned court a fixed deposit for Rs. Ten thousand only (INR 10,000/-), with the clause of automatic renewal of the principal and the interest reverting to the linked account, made in favor of the 'Chief Judicial Magistrate' of the concerned district, or blocking the aforesaid amount in favour of the concerned 'Chief Judicial Magistrate'. Said fixed deposit or blocking funds can be from any of the banks where the stake of the State is more than 50% or from any of the well-established and stable private sector banks. In case the bankers are not willing to make a Fixed Deposit in such eventuality it shall be permissible for the petitioner to prepare an account payee demand draft favouring concerned Chief Judicial Magistrate for a similar amount.

(c). Such court shall have a lien over the funds until the case's closure or discharged by substitution, or up to the expiry of the period mentioned under S. 437-A CrPC, 1973, and at that stage, subject to the proceedings under S. 446 CrPC, the entire amount of fixed deposit, less taxes if any, shall be endorsed/returned to the depositor.

(d). The petitioner is to also execute a bond for attendance in the concerned court(s) as and when asked to do so. The presentation of the personal bond shall be deemed acceptance of the declarations made in the bail petition and all other stipulations, terms, and conditions of section 438(2) of the Code of Criminal Procedure, 1973, and of this bail order.

(e). While furnishing personal bond, the petitioners shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number, (If available), when the attesting officer/court thinks appropriate or considers the accused as a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

17. The petitioner shall not influence, browbeat, pressurize, make any inducement, threat, or promise, directly or indirectly, to the witnesses, the police officials, or any other person acquainted with the facts and the circumstances of the case, to dissuade them from disclosing such facts to the police, or the court, or to tamper with the evidence.

18. Petitioner to comply with their undertaking made in the bail petition, made before this court through counsel as reflected at the beginning of this order. If the petitioner fails to comply with any of such undertakings, then on this ground alone, the bail might be canceled, and the victim/complainant may file any such application for the cancellation of bail, and the State shall file the said application.

19. The petitioner is directed not to keep more than one prepaid SIM, i.e., one prepaid mobile phone number, till the conclusion of the trial; however, this restriction is only on prepaid SIMs [mobile numbers] and not on post-paid connections or landline numbers. The petitioner must comply with this condition within fifteen days of release from prison. The concerned DySP shall also direct all the telecom service providers to deactivate all prepaid SIM cards and prepaid mobile numbers issued to the petitioner, except the one that is mentioned as the primary number/ default number linked with the AADHAAR card and further that till the no objection from the concerned SHO, the mobile service providers shall not issue second pre-paid SIM/ mobile number in the petitioner's name. Since, as on date, in India, there are only four prominent mobile service providers, namely BSNL, Airtel, Vodafone-Idea, and Reliance Jio, any other telecom service provider are directed to comply with the directions of the concerned Superintendent of Police/Commissioner of Police, issued in this regard and disable all prepaid mobile phone numbers issued in the name of the petitioner, except the main number/default number linked with AADHAR, by taking such information from the petitioner's AADHAR details or any other source, for which they shall be

legally entitled by this order. This condition shall continue till the completion of the trial or closure of the case, whichever is earlier. In Vernon v. The State of Maharashtra, 2023 INSC 655, [para 45], while granting bail under Unlawful Activities (Prevention) Act, 2002, Supreme Court had directed imposition of the similar condition, which reads as follows, “(d) Both the appellants shall use only one Mobile Phone each, during the time they remain on bail and shall inform the Investigating Officer of the NIA, their respective mobile numbers.”

20. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, ammunition, if any, along with the arms license to the concerned authority within fifteen days from release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offence.

21. During the trial's pendency, if the petitioner repeats or commits any offence where the sentence prescribed is more than seven years or violates any condition as stipulated in this order, it shall always be permissible to the respondent to apply for cancellation of this bail. It shall further be open for any investigating agency to bring it to the notice of the court seized of the subsequent application that the accused was earlier cautioned not to indulge in criminal activities. Otherwise, the bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C., if not canceled due to non-appearance or breach of conditions.

22. In return for the protection from further incarceration at this stage, the Court believes that the accused shall also reciprocate through desirable behaviour. **If the petitioner again indulges in drugs, then while considering grant of bail in such cases, the concerned Courts may keep it as a factor that this Court had granted a final opportunity to the petitioner to mend his ways.**

23. The conditions mentioned above imposed by this court are to endeavour that the accused does not repeat the offence and to ensure the

safety of the society. In *Mohammed Zubair v. State of NCT of Delhi*, **2022:INSC:735 [Para 28]**, Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

24. Any Advocate for the petitioner and the Officer in whose presence the petitioner puts signatures on personal bonds shall explain all conditions of this bail order in any language that the petitioner understands.

25. If the petitioner finds bond amount beyond social and financial reach, it may be brought to the notice of this Court for appropriate reduction. Further, if the petitioner finds bail condition(s) as violating fundamental, human, or other rights, or causing difficulty due to any situation, then for modification of such term(s), the petitioner may file a reasoned application before this Court, and after taking cognizance, even to the Court taking cognizance or the trial Court, as the case may be, and such Court shall also be competent to modify or delete any condition.

26. This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation as per law.

27. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offence in this FIR, and if the new section prescribes maximum sentence which is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above, then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days providing an opportunity to avail the remedies available in law.

28. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

29. Although this court is granting bail primarily because pre-trial custody must not exceed beyond a reasonable time, and given the delay in the trial, further pre-trial custody would not be justifiable at this stage. But still, it cannot be lost sight that the petitioner is a habitual offender, the offence is of drugs which has destroyed the communities and the families, and if trial is delayed, it can cause serious repercussions, including loss of faith in the justice system. Considering the serious nature of the offence the concerned trial court is also requested to make all endeavors to conclude the trial expeditiously. If the petitioner does not attend the trial without sufficient cause or deliberately delays it, this bail shall be liable to be cancelled by the trial court without any bar from this court. Similarly, if the trial is delayed by other accused on bail (if any), they are also strictly dealt with in accordance with the law.

30. *There would be no need for a certified copy of this order for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition allowed in aforesaid terms. All pending applications, if any, stand disposed.

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NEWS

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