



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

**CRM-M-41259-2024**

Date of Decision: 11.11.2024

Ravi Kumar @ Bhaiya

..... Petitioner

Versus

State of Haryana

.....Respondent

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

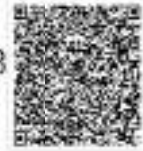
Present: Mr. L.S. Sekhon, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

**Rajesh Bhardwaj, J. (ORAL)**

1. Petitioner has approached this Court by way of present petition praying for granting him regular bail in case FIR No.33 dated 20.01.2023, under Sections 15-C, 27-A, 31 of NDPS Act, 1985 and Section 201 IPC, registered at Police Station Sadar Fatehabad, District Fatehabad.

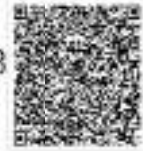
2. As per the facts of the case, police received a secret information that Ravi @ Bhaiya (petitioner) is involved in smuggling of poppy husk and he was coming on the car along with the contraband. If the barricade is laid then he can be arrested along with the contraband. On receiving the secret information, police party laid the barricade and white colour car was stopped as informed by the secret informer. On asking the name of driver, he disclosed his name to be Ravi @ Bhaiya and five bags were found lying in the car. After giving the offer, the search of the bags was conducted and the same were found to be containing poppy husk. Each bag was found to be weighing 20 kgs and thus, in all 100 kgs poppy husk was recovered from Ravi @ Bhaiya. On



registration of the FIR, investigation commenced. Petitioner was arrested on 20.01.2023. He approached the learned Additional Sessions Judge, Fatehabad praying for grant of bail. However, the same was declined vide order dated 05.08.2024. Hence, petitioner is before this Court praying for grant of bail.

3. It has been vehemently contended by counsel for the petitioner that petitioner has been falsely and frivolously implicated in this case. He submits that admittedly, the case of the prosecution is based on the basis of secret information, however, there is a violation of mandatory provisions of Section 42 of the NDPS Act. He submits that the petitioner is not even the owner of the car from which the quantity of 100 kgs of poppyhusk was allegedly recovered. He submits that no independent witness has been joined by the Police party while conducting the search. He further submits that though the petitioner is prosecuted in other cases as well, however, his sentence stands suspended in those cases. He submits that in all there are three accused, out of which one accused, namely, Sukhchain Singh @ Happy has been granted bail by this Court vide order dated 30.07.2024. It is submitted that the petitioner is behind bars from 20.01.2023, however, the prosecution has been able to examine only three witnesses till date. It is further submitted that in the overall facts and circumstances of the present case, the petitioner deserves to be granted bail.

4. Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner is a habitual offender, who has been earlier convicted in two of the cases. He submits that recovery made from the petitioner is 100 Kgs of poppyhsuk, which is



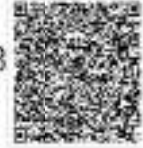
commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted in the present case. On instructions from ASI Major Singh, he submits that out of total 23 prosecution witnesses, only 03 witnesses have been examined till date.

5. Heard.

6. After hearing counsel for the parties and perusing the record, it is apparent that the present FIR was registered on the basis of the secret information received and the petitioner was arrested in pursuant to the FIR registered. 100 Kgs of poppyhusk allegedly has been recovered from the car in which the petitioner was travelling. The petitioner was arrested on 20.01.2023, however, till date out of total 23 prosecution witnesses, only 03 witnesses have been examined. One of the co-accused, namely, Sukhchain Singh @ Happy has already been granted bail by this Court vide order dated 30.07.2024. Needless to say that speedy trial is the fundamental right of every accused. Though the petitioner is prosecuted in other cases, however, his sentence is suspended in those cases as is apparent from the custody certificate produced.

7. As held by the Hon'ble Supreme Court in ***Mohd Muslim @ Hussain Vs. State (NCT of Delhi), 2023 LiveLaw(SC)260***, this Court is of the opinion that the case of the petitioner is covered by the ratio laid down by the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme Court expressed its views as under:-

*19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively*



*exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.*

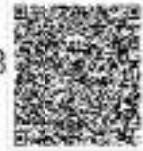
20 xxxxx

*21 .....it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.*

22 xxxxx

*23. There is a further danger of the prisoner turning to crime, "as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal"<sup>22</sup> (also see Donald Clemmer's 'The Prison Community' published in 1940<sup>23</sup>). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.'*

8. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will



take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

9. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

10. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

**(RAJESH BHARDWAJ)**  
**JUDGE**

**11.11.2024**

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|-----------------------------|--------|
| Whether Speaking/Reasoned : | Yes/No |
| Whether Reportable :        | Yes/No |