

2025:PHHC:080167



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

CRM-M-2192-2025
Date of Decision: 07.07.2025

Anup Kumar @ Anoop Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. S.S. Duhan, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in case FIR No.134 dated 04.04.2024 under Section 15C of the NDPS Act (Section 27-A of the NDPS Act was added later on) registered at Police Station Sadar Fatehabad, District Fatehabad.

2. Succinctly, facts of the case are that on 04.04.2024, while the police party was on patrolling, saw a car. On seeing the police party, driver of the said car got perplexed and he tried to reverse the same. On suspicion, the car was stopped by the police party. On asking, driver of the car disclosed his name as Anup Kumar (petitioner) son of Ram Singh. Two plastic bags were seen lying on the rear seat of the car. The police suspected some contraband therein and thus, after giving offer for the personal search, the same was conducted and from the rear seat of the car two plastic bags were recovered whereas three plastic bags were recovered from the trunk (diggi) of the car, which were checked and on

weighing the same, it was found to be containing 12 Kg. poppy-husk in each bag and in total 60 Kgs. poppy-husk was recovered. Driver of the car failed to produce any licence regarding possession of the same. Hence, he was arrested on the spot and on registration of the FIR, the investigation commenced and recovered substance was sent to the FSL lab and the challan was presented. On framing of charges, the trial commenced. The petitioner approached the Court of learned Special Judge, Fast Track, under NDPS Act, Fatehabad praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 25.10.2024. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present petition.

3. It has been contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He further submits that 60 Kg. poppy-husk was planted upon the petitioner and the alleged recovery has been effected from a public place and independent witness has not been joined. He submits that there is violation of Section 50 of the NDPS Act. He submits that the petitioner has no criminal antecedents and thus, his false implication is writ large. It is submitted that the petitioner is behind the bars since the date of his arrest i.e. 04.04.2024 but till date there is no progress in the trial. He, thus, submits that in view of the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the petitioner was arrested on the spot and from the car driven by the petitioner, recovery of total 60 Kgs. poppy-husk was effected, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. He has placed on record the custody certificate of the petitioner. On instructions, he submits that the

charges have been framed and out of total 18 prosecution witnesses, only 02 witnesses have been examined so far.

5. After hearing counsel for the parties and perusing the record, it is deciphered that in the present FIR recovery allegedly effected from the petitioner is of 60 Kgs. poppy-husk. He is not involved in any other criminal case. Out of total 18 prosecution witnesses, only 02 witnesses have been examined so far. The custody certificate would reflect that the petitioner is behind the bars since the date of his arrest and has suffered incarceration of 01 year, 02 months & 29 days as on 04.07.2025.

6. 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 of law 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.

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21it 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.

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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”²² (also see Donald Clemmer’s ‘The Prison Community’ published in 1940²³). 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.’*

7. 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. Thus, keeping in view the arguments raised by both the sides, 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.

8. 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.

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

07.07.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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