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

CRM-M-2007-2025

Date of decision : 10.03.2025

Kala Singh**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Petitioner has approached this Court by way of filing the present second petition praying for grant of regular bail to him in case FIR No.49 dated 16.04.2024, under Sections 15-C and 29 of the NDPS Act, 1985, registered at Police Station Maur District Bathinda.

2. Succinctly facts of the case are that the police party while on patrolling on 16.04.2024 stopped a young person standing near three plastic bags. On suspicion, he was apprehended and on asking, he disclosed his name as Kuldeep Singh @ Rocky. He was suspected to be carrying some contraband in the three plastic bags and thus, was given the offer for search. On conducting the search, 20 kg of poppy husk was recovered from each of the bag and thus, total 60 kg of poppy husk was recovered from the three bags being carried by him. He failed to produce any license regarding the possession of the same and hence, he was arrested on the spot. On registration of the FIR, investigation commenced.

The samples taken were sent to the FSL. During investigation, accused



Kuldeep Singh disclosed about the complicity of the present petitioner and one Amandeep Singh and hence, they were also arrayed as an accused. On completion of the investigation, challan was presented and on framing of the charges, learned trial Court proceeded with the trial. Petitioner approached the Court of learned Vacation Judge, Bathinda praying for grant of bail. However, after hearing both the sides, the same was declined vide order dated 21.06.2024. Thereafter, petitioner earlier approached this Court by way of filing CRM-M-34158-2024, however, the same was dismissed as withdrawn vide order dated 15.10.2024. Hence, petitioner is before this Court by way of filing the present second petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case only on the basis of disclosure statement of co-accused. He submits that the disclosure statement which itself is not even an admissible evidence cannot be relied upon. He submits that even otherwise, the alleged recovery effected from the co-accused is 60 kg of poppy husk whereas, as per the NDPS Schedule, above 50 kg is a commercial quantity. He submits that petitioner has no criminal antecedents as he has never been involved in any other case. He further submits that out of 13 prosecution witnesses, no witness has been examined till date.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the recovery effected from co-accused Kuldeep Singh is 60 kg of poppy husk who is none other than son of the petitioner. He submits that the complicity of the petitioner and one more accused was found to be established during investigation and hence, they were also arrayed as an



accused. It is submitted that provisions of Section 37 of the NDPS Act are attracted in the present case. He has produced the custody certificate of the petitioner. On instructions, he has submitted that out of 13 prosecution witnesses, 01 of the witness has been partly examined.

5. After hearing counsel for the parties and perusing the record, it is apparent that petitioner was arrayed as an accused in the present case on the basis of the disclosure statement of co-accused. The recovery effected from the co-accused is 60 kg of poppy husk. Custody certificate would show that the petitioner is behind bars from last 10 months and 18 days as on 08.03.2025. It further reflects that petitioner has no criminal antecedents. As submitted, out of 13 prosecution witnesses, only 01 witness has been partly examined.

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 petitioners is covered by the ratio of law laid down by the Hon'ble Supreme Court. In this 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.

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.

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 conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

10.03.2025
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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