



CRM-M-1991-2025

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

CRM-M-1991-2025

Date of Decision: 08.05.2025

Lovepreet Singh @ Love

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Madan Sandhu, Advocate, for the petitioner.

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

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in a case FIR No.58 dated 01.10.2024 under Section 21 of the NDPS Act, 1985, at Police Station Talwandi Chaudrian, District Kapurthala.

2. Succinctly, facts of the case are that on 01.10.2024, the police party while on patrolling saw two persons coming on motorcycle on high speed, who on seeing the police got perplexed and started turning the motorcycle back, however, the motorcycle slipped and they fell down. Both of them were overpowered by the police party. On asking the driver of the motorcycle disclosed his name as Lovepreet Singh @ Love (petitioner) and the pillion rider disclosed name as Amitdeep Singh. They were suspected to be carrying intoxicant substances and thus, were given offer to be searched. On conducting search of Lovepreet Singh @ Love, 51 grams of heroin was recovered from his pocket, whereas, on search of pocket of other person namely, Amitdeep Singh, 10 grams of heroin was recovered. They failed to produce any licence regarding the possession of the same. Hence, the FIR was registered and they were arrested on the spot. On registration of the FIR, the investigation commenced. Samples of both the recoveries were taken



separately and sent to the FSL. On receiving the FSL report, intoxicant allegedly recovered from the petitioner was found to be 51 grams of Methamphetamine. The petitioner approached the Court of learned Judge, Special Court, Kapurthala 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 18.11.2024. Hence, the petitioner has approached this Court praying for grant of regular bail by way of filing the present petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He submits that recovery in the present case has been allegedly effected from a public place, however, no independent witness has been joined. He further submits that even otherwise recovery is effected from the person of petitioner and hence, there is a violation of Section 50 of the NDPS Act. It is submitted that though the petitioner was alleged to be carrying 51 grams of heroin, however, the as per FSL report, the contraband recovered has been found to be Methamphetamine. He submits that quantity above 50 grams of Methamphetamine is commercial, whereas, from the petitioner, it is alleged to be 51 grams of Methamphetamine which is marginally above the commercial quantity and thus, it is debatable whether the recovery effected is commercial or non-commercial quantity since the alleged recovery as shown in the FIR is 51 of grams of heroin. He submits that the petitioner has no criminal antecedents and he is behind bars since the date of his arrest. He submits that the investigation is complete and charges are also framed, but there is no substantial progress in the trial. He, thus, submits that in the



overall facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Short affidavit of Gurmeet Singh, PPS, Deputy Superintendent of Police, Sub Division Sultanpur Lodhi, District Kapurthala filed in Court is taken on record. Per contra, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that recovery from both the accused was effected on due compliance of mandatory provisions of the NDPS Act. He submits that recovery effected from the petitioner is 51 grams of Methamphetamine, which is a commercial quantity and thus, Section 37 of the NDPS Act are attracted. On instructions from ASI Harjinder Singh, he has submitted that out of 11 prosecution witnesses, only 01 witness has been examined. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that recovery in the present case has been effected from personal search of the petitioner and alleged 51 grams of Methamphetamine was recovered from him. As per the schedule of the NDPS Act, quantity above 50 grams of Methamphetamine lies under the commercial quantity, whereas, from the petitioner, 51 grams of Methamphetamine was allegedly recovered, which is marginally above the commercial quantity. Only one witness, out of total 11 prosecution witness has been examined. The custody certificate reflects that the petitioner has suffered incarceration of 07 months & 04 days as on 07.05.2025. It further reflects that the petitioner has no criminal antecedents.

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. 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.

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.

(RAJESH BHARDWAJ)
JUDGE

08.05.2025

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