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

CRM-M-5872-2025

Date of decision :29.07.2025

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

Present :- Ms. Manveen Kahlon, Advocate
for the petitioner.

Ms. Simran Gorla, A.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present second petition has been filed for grant of regular bail to the petitioner in case FIR No.65 dated 14.03.2023, under Sections 21-C, 25/29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station STF/SAS Nagar, Mohali.

2. Succinctly the facts of the case are that the police party while on patrolling on 14.03.2023, received a secret information to the effect that Hardeep Singh @ Billa was involved in smuggling of heroin. It was informed that he had contacts with the smugglers across the border in Pakistan and from there he brings heroin to smuggle. It was informed that he was going to supply heroin on his motorcycle and was standing on Bridge Drain waiting for his customer and if the raid is conducted, he could be arrested along with the contraband. On receiving the secret information, the raiding team was constituted and the police reached at the place disclosed. A clean shaven person along with a girl were found standing near the motorcycle. On seeing the police, the person tried to



escape, however, he was apprehended. On asking, he disclosed his name as Hardeep Singh @ Billa (present petitioner). He was suspected to be carrying some contraband and thus, on giving the offer, search was conducted. On conducting the search, a polythene packet containing heroin was recovered from the right pocket of his pant and on weighing the same, it was found to be 500 grams. They failed to produce any licence regarding the possession of the same and thus, both were arrested on the spot. On registration of FIR, investigation commenced. Samples taken from the contraband were sent to FSL. On conclusion of the investigation, charges were framed and challan was presented. On framing of charges, the trial commenced. The petitioner approached the learned Judge, Special Court, Tarn Taran for grant of bail, however, after hearing both the sides, the same was declined by the learned Judge, Special Court, Tarn Taran vide order dated 03.08.2023. Aggrieved by the same, the petitioner earlier approached this Court by way of filing of CRM-M-52160-2023, however, the same was dismissed as withdrawn by this Court vide order dated 15.10.2024. Hence, the 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 implicated in the present case. It is submitted that the case is planted upon the petitioner on the basis of secret information, however, there is violation of Section 42 of NDPS Act. He submits that the recovery was effected from the person of the petitioner where compliance of Section 50 of NDPS Act, is mandatory, however, there is violation of the same as well. He submits that the alleged recovery has been effected from a public place, however, no independent witness was joined by the investigating agency. It is submitted that the story made



by the prosecution is totally a cock and bull story as the petitioner has no criminal antecedents. He submits that the petitioner is behind bars since the date of his arrest and till date there is no progress in the trial. It is submitted that the petitioner has suffered an incarceration of more than 03 years and thus, in 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 the counsel for the petitioner and submits that on due compliance of provisions of NDPS Act, the recovery of 500 grams of heroin was effected from the petitioner, which is a commercial quantity and thus, provisions of 37 of NDPS Act, are attracted in the present case. She, on instructions, has submitted that out of total 20 prosecution witnesses only 03 witnesses have been examined till date. She has produced the custody certificate of the petitioner on record.

5. On hearing counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since 14.03.2023. The present FIR was registered on the basis of secret information that the petitioner was involved in smuggling of heroin. However, the custody certificate shows that he has no criminal antecedents. As per custody certificate, the petitioner has suffered an incarceration of 02 years, 04 months and 10 days as on 28.07.2025.

6. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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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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"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. 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 Court/Duty Magistrate.

29.07.2025
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(RAJESH BHARDWAJ)
JUDGE

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