

HARWINDER SINGH @ HAPPY

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. S.S.Gill, Advocate for the petitioner.

Mr. Ankit Grewal, DAG, Punjab.

SANJIV BERRY, J. (ORAL)

Learned State counsel has filed custody certificate dated 29.01.2025, the same is taken on record, copy thereof has been supplied to the counsel opposite.

2. The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail in the following case:-

FIR No.	Dated	Sections	Police Station
66	16.04.2023	22 of NDPS, Act,	Sadar Samana, Patiala, District Patiala

3. Brief facts of the case are that during patrolling on 16.04.2023 at about 02:40 P.M. one young pedestrian was seen coming from the village side and on seeing police party ran towards the wheat fields and took out

transparent polythene envelope from his pocket and threw the same into the wheat fields. Police apprehended him, and recovered 850 loose intoxicant tablets. Hence FIR was registered.

4. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in the present case. He contends that recovery of narcotics has been planted on the petitioner. He contends that petitioner was arrested on 16.04.2023 and since then he is in custody, and after completion of investigation, challan has already been presented in Court which will take sufficient long time to conclude. Hence prayed for grant of regular bail to the petitioner.

5. *Per contra*, learned State counsel referring to the reply submitted by the State has opposed the bail petition by arguing that petitioner was arrested on the spot with 850 intoxicant tablets and the same were sent to FSL, SAS Nagar and as per report dated 05.07.2023 (Annexure R-1) the said intoxicant tablets contain salt "Tramadol Hydrochloride" weighing 283.5 grams which falls within the purview of commercial quantity and by virtue of Section 37 of the NDPS Act, the petitioner is not entitled to concession of bail. He further contends that petitioner is habitual of dealing in narcotics and he is involved in FIR No.145, dated 06.09.2023 under Section 15 of NDPS, Act in which recovery of 60 kg. Poppy husk was effected and petitioner was convicted therein. Hence prayed for dismissal of bail petition.

6. After considering the rival contentions and perusing the record, it transpires that during patrolling, police had apprehended the petitioner and recovered 850 intoxicant tablets and as per FSL report the said intoxicant



tablets contain salt “Tramadol Hydrochloride” weighing 283.5 grams which falls within the purview of ‘commercial quantity’. Moreover, as per reply submitted by the State, the petitioner was convicted in FIR No.145, dated 06.09.2023 under Section 15 of NDPS, Act in which recovery of 60 kg. Poppy husk was effected. Considering the nature and gravity of the offence, and also the fact that the recovered contraband falls within the purview of ‘commercial quantity’, attracting the bar under Section 37 of the NDPS Act, no case is made out in favour of the petitioner for grant of regular bail at this stage, as a consequence, the petition is hereby dismissed.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

30.01.2025
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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No