

2025:PHHC:098089

1. By this order, I dispose of the above mentioned three petitions arising out of the same FIR.

2. All three petitions have been filed praying for the grant of regular bail to the petitioners in case bearing FIR No.125, dated 30.04.2023, under Section 18 of NDPS Act, 1985 (Sections 25 & 29 of NDPS Act added later on), registered at Police Station Special Task Force, Phase 4, Mohali, Punjab.

3. Succinctly the facts of the case are that the police party while on patrolling on 30.04.2023, received a secret information to the effect that Jitender Singh @ Mithan and Balbir Singh @ Beera are involved in smuggling of opium and they would be coming in the trollea bearing registration No. PB-05-AB-5979 and in case of barricading, they could be apprehended along with the contraband. On receiving the secret information, the raiding party was constituted and the barricading was laid. The trollea, as disclosed by the secret informer, was seen and the same was stopped. The person, who was the driver, disclosed his name as Jitender Singh @ Mithan and the person sitting on the pillion seat, disclosed his name as Balbir Singh @ Beera. They were suspected to be carrying some contraband. On conducting the search from the cabin of the trollea, Opium weighing 8 Kg was recovered. They failed to produce any licence regarding the conscious possession of the same. Thus the FIR was registered and both were arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On filing the challan, the charges were framed and the trial commenced.

During the investigation, the disclosure statement of Jitender Singh @

Mithan was recorded and thus, complicity of the petitioner in **CRM-M No.20208 of 2025**, namely, Jasbir Singh was also surfaced and he was also arrayed as an accused in the present case and thus was arrested on 07.08.2024. The petitioners approached the Court of learned Judge, Special Court, Ferozepur praying for the grant of bail. However after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Ferozepur declined the bail petitions filed by all the petitioners vide orders dated 20.02.2024 & 18.10.2024, respectively. Being aggrieved, petitioner-Balvir Singh @ Beera in CRM-M-7670-2025 and petitioner-Jasbir Singh in CRM-M-20208-2025 had earlier approached this Court by way of filing CRM-M No.13417 of 2024 and CRM-M No.55514 of 2024 praying for the grant of bail, however both the petitions were dismissed as withdrawn vide order dated 16.09.2024 & 13.11.2024, respectively. Hence being aggrieved, the petitioners are before this Court by way of filing the present first & second petitions praying for the grant of regular bail.

4. Learned counsels for the petitioners have vehemently contended that the petitioners have been falsely and frivolously implicated in the present case. They have submitted that the FIR was registered on the basis of secret information but there is a blatant violation of the provisions of Section 42 of NDPS Act. They have submitted that there is a violation of provisions of Section 50 of NDPS Act as well. Learned counsel for the petitioner, namely, Jasbir Singh, has submitted that the petitioner has been implicated in the present case on the basis of disclosure statement of Jitender Singh @ Mithan, which even otherwise is

not an admissible evidence. They have submitted that the petitioners are behind bars since the date of their arrest, i.e. 30.04.2023 & 07.08.2024. They have submitted that the petitioners have no criminal antecedents. They have submitted that in the facts and circumstances, the petitioners deserve to be granted regular bail.

5. Short reply dated 06.01.2025 by way of an affidavit of Bhupinder Singh, PPS, Deputy Superintendent of Police, Special Task Force, Ferozepur Range, Ferozepur on behalf of the respondent-State has already been filed by the learned State counsel.

6. *Per contra*, learned counsel for the State has opposed the submissions made by counsels for the petitioners. She has submitted that the recovery effected is 08 Kgs of Opium, which is a heavy commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. She, on instruction, has submitted that out of 18 prosecution witnesses, 12 witnesses remain to be examined. She has produced custody certificates of all the petitioners today in the Court and the same are taken on record.

7. Heard.

8. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioners are behind bars since the date of their arrest, i.e. 30.04.2023 & 07.08.2024. Custody certificates produced would show that petitioners, namely, Jitender Singh @ Mithan and Balvir Singh @ Beera have completed incarceration of 02 years, 02 months and 26 days as on 31.07.2025 and petitioner, namely, Jasbir Singh has completed incarceration of 11 months and 22 days as on 31.07.2025.

Custody certificates further reflect that all the petitioners are not involved

in any other case. Out of 18 prosecution witnesses, 12 remain to be examined. The contraband recovered in the present case falls under the category of commercial quantity.

9. After perusal of the order passed by the Hon'ble Supreme Court in Mohd Muslim @ Hussain vs. State (NCT of Delhi), 2023 Live Law (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.*
xxxxxx xxxxxxxx
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.*
xxxxxx xxxxxxxx
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.'

10. 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.
11. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsels for the petitioners succeed in making out a case for the grant of bail. Accordingly, the present petitions are allowed and the petitioners, namely, Jitender Singh @ Mithan, Balvir Singh @ Beera and Jasbir Singh are ordered to be released on bail on their 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.

01.08.2025
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(RAJESH BHARDWAJ)
JUDGE

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