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

**CRM-M No.9394 of 2025
Date of decision : 13.05.2025**

Som Nath @ Soma

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.

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

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.133, dated 06.11.2024, under Section 21 of Narcotic Drugs & Psychotropic Substances Act (for short 'NDPS Act'), 1985, registered at Police Station Sadar Nawanshahar, District SBS Nagar.

2. Succinctly the facts of the case are that on 06.11.2024, the police party while on patrolling, saw a person standing near the rooms, near the Truck Lay By. On seeing the police party, he got perplexed and he took out a white color polythene envelope from left pocket of his pant and threw on the ground. The police official apprehended him. He was suspected



to be carrying some contraband in the polythene thrown by him. The same was searched and on conducting the search, 50 grams of heroin was recovered from the same. He failed to produce any licence regarding the conscious possession of the same and thus the FIR was registered and he was arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On completion of the investigation, the challan was presented and on framing of the charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Shaheed Bhagat Singh Nagar praying for the grant of bail. However, after hearing both the sides finding no merit in the same, the learned Judge, Special Court, Shaheed Bhagat Singh Nagar declined the petition filed by the petitioner vide order dated 07.01.2025. Hence being aggrieved, the petitioner is before this Court by way of filing the present petition praying for the grant of regular bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He has submitted that the alleged recovery has been effected in violation of the provisions of Section 50 of NDPS Act. He has submitted that even otherwise the recovery effected in the public place, however there is no independent witness joined. He has submitted that as the petitioner is facing prosecution in other cases, hence the recovery has been planted upon the petitioner to falsely implicate him in the present case. He has submitted that even otherwise the contraband allegedly recovered is a non commercial quantity and thus, the provisions of Section 37 of NDPS Act are not attracted. He has submitted that the petitioner is behind bars since



the date of his arrest, i.e. 06.11.2024, however there is no progress in the trial. He has thus submitted that in the facts and circumstances, the petitioner deserves to be granted bail.

4. *Per contra*, learned counsel for the State however has opposed the submissions made by counsel for the petitioner. He, on instructions, has submitted that it was a chance recovery and thus the provisions of Section 50 of NDPS Act are not attracted. He has submitted that though the recovery effected falls under the category of non commercial quantity, however the petitioner was arrested on the spot and thus, the conscious possession of the contraband is duly proved. He has placed on record custody certificate of the petitioner dated 12.05.2025 and has submitted that the petitioner is a habitual offender as he is involved in 05 other cases, out of which, he has been convicted in 03 cases. He has submitted that out of 09 prosecution witnesses, no witness has been examined till date.

5. Heard.

6. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested on 06.11.2024 for carrying the contraband heroin weighing 50 grams. The recovery effected falls under the category of non commercial quantity. Though the petitioner is involved in other cases as well, however in the cases in which he has been convicted, he has already undergone the sentence and rest of the cases, he is already on bail. Out of 09 prosecution witnesses, no witness has been examined till date. Custody certificate of the petitioner would show that the petitioner has suffered incarceration of 06 months and 04



days as on 12.05.2025.

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.

8. 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 counsel for the petitioner succeeds in making out a case for the grant of 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. However, if the petitioner does not furnish the bail bonds within seven days from today, then his further custody period after one week will not be counted in this case.

13.05.2025
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(RAJESH BHARDWAJ)
JUDGE

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