



CRM-M-9944-2025

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

CRM-M-9944-2025

Date of Decision: 29.04.2025

Prabhjit Singh @ Prabh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Raghav Soni, Advocate, for the petitioner.

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

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present third petition praying for granting regular bail in case FIR No.27 dated 12.02.2024 under Sections 21-C, 25, 29 of NDPS Act, 1985 and Section 473, 489 IPC (Section 186 IPC added lateron), registered at Police Station STF, District STF Wing, SAS Naga, Mohali.

2. Succinctly, facts of the case are that on 12.02.2024, the police party while on patrolling received a secret information to the effect that Prabhjit Singh @ Prabh (petitioner) and Sajan were involved in smuggling of heroin. It was informed that they were coming with huge quantity of heroin on motorcycle and in case of barricading, they could be arrested alongwith the contraband. On receiving the information, the raiding party was constituted and barricade was laid. The police party, thereafter, saw a motorcycle as disclosed, on which two persons were riding. They were stopped. On asking, the person driving the motorcycle disclosed his name as Prabhjit Singh @ Prabh and the person riding pillion disclosed his name as Sajan. They were suspected to be carrying some contraband and on conducting search of the motorcycle, 450 grams of heroin was recovered.



They failed to produce any licence regarding the possession of the same and thus, the FIR was registered and they were arrested on spot. Samples taken were then sent to the FSL. On registration of the FIR, the investigation commenced. On receiving the report from the FSL, the challan was presented. On framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Amritsar 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 20.05.2024. Thereafter, the petitioner approached this Court twice praying for the grant of regular bail by way of filing CRM-M-39908-2024 and CRM-M-56656-2024, however, both the bail petitions were allowed to be dismissed as withdrawn vide orders dated 23.08.2024 and 20.11.2024, respectively. Hence, the petitioner has again approached this Court praying for grant of regular bail by way of filing the present third petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He submits that the FIR in the present case has been registered on the basis of the secret information, however, there is a violation of Section 42 of the NDPS Act. He submits that recovery has been effected from a public place at about 03:00 p.m., however, no independent witnesses has been joined. He further submits that recovery has also been effected in violation of mandatory provisions of Section 50 of the NDPS Act. He submits that the petitioner is a young boy, who has no criminal antecedents as he has never been involved in any other criminal case. He,



thus, submits that 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 counsel for the petitioner. He has submitted that the petitioner and co-accused both were specifically named in the secret information and thus, by lying barricade, both were arrested with the contraband. He submits that recovery has been effected on due compliance of mandatory provisions of NDPS Act. He further submits that as per FSL report, the recovery effected from the petitioner falls under the category of commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. On instructions from ASI Baljinder Singh, he submits that out of total 13 prosecution witnesses, two witnesses have been examined so far. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is inferred that the FIR in the present case was registered on the basis of the secret information. The alleged recovery has been effected from the motorcycle. The custody certificate reflects that he has suffered incarceration of 01 year 02 months & 11 days as on 28.04.2025. It further reflects that the petitioner has no criminal antecedents as he has never been involved in any case. Out of total 13 prosecution witnesses, two witnesses have been examined.

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.

29.04.2025

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned :

Whether Reportable :

Yes/No

Yes/No