



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

CRM-M-13793-2025

Date of decision : 19.03.2025

Parmatma Singh

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Prateek Pandit, Advocate
for the petitioner.

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

RAJESH BHARDWAJ, J. (Oral)

1. Petitioner has approached this Court by way of filing the present petition praying for grant of regular bail to him in case FIR No.171 dated 17.11.2024, under Sections 15, 29 of NDPS Act, 1985, registered at Police Station Shahkot District Jalandhar.

2. Succinctly facts of the case are that on 17.11.2024, the police received a secret information to the effect that Sonu son of Bod Singh and Karan son of Parmatma Singh were big smugglers and they were involved in smuggling of poppy husk. It was informed that they were coming in Truck bearing No.HP-12-8481 with driver Harpreet Singh @ Happy and cleaner Varinder Singh @ Raju. In case of naqa, they could be arrested along with the contraband. On receiving the secret information, barricading was laid and on seeing the disclosed truck, the same was stopped. On carrying the search, 105 kg of poppy husk was recovered from the truck. They failed to produce any license regarding the possession of the same and thus, were arrested on the spot. On registration of the FIR, investigation commenced. On the disclosure statement of the



co-accused, petitioner was also arrayed as an accused in the present case. Hence, petitioner was nominated on 18.11.2024 and thereafter, he was arrested on 21.11.2024. Petitioner approached the Court of learned Judge, Special Court, Kapurthala praying for grant of bail. However, after hearing counsel for the parties, learned Judge, Special Court, Kapurthala declined the same vide order dated 05.02.2025. Hence, petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been victimized by the police simply for the reason that he is involved in other cases under the NDPS Act. He submits that admittedly petitioner was behind bars in FIR No.295 dated 13.11.2021, under Section 15, 29 of NDPS Act, P.S. Sultanpur Lodhi, District Kapurthala and on the basis of disclosure statement, he was arrested in that case on 14.04.2022 and thereafter, was granted bail in the said case vide order dated 08.01.2025. He thus, submits that on the date of the occurrence in the present case, petitioner was admittedly behind bars and hence his complicity in the present case is not established. He submits that the petitioner has been implicated in the present case by the police in a pre-planned manner. He thus, submits that in the facts and circumstances of the case specially when petitioner was already behind bars, he deserves to be granted bail.

4. Learned State counsel has opposed the submissions made by counsel for the petitioner. He, on instructions from SI Lakhbir Singh, has submitted that petitioner is a habitual offender. He submits that though the petitioner was behind bars in some other cases, however, it has been found during investigation that he was in contact with the co-accused from the



jail itself and thus, managed to supply the contraband recovered from the co-accused. He also submits that 105 kg of poppy husk was recovered from the truck which is a commercial quantity and thus, provisions of Section 37 of NDPS Act are attracted. He submits that the case is under investigation. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that petitioner was behind bars on the date of occurrence is not in dispute in FIR No.295 dated 13.11.2021, under Section 15, 29 of NDPS Act, P.S. Sultanpur Lodhi, District Kapurthala. As submitted by counsel for the petitioner, he was granted bail on 08.01.2025. Though the petitioner is involved in other cases as is reflected from the custody certificate but the same cannot be a ground for non-consideration of his bail. This Court is convinced on the merits of the case in hand.

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 petitioners is covered by the ratio of law laid down by the Hon'ble Supreme Court. In this 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.

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.

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 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 trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

19.03.2025
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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