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

CRM-M-16362-2025

Date of Decision: 10.07.2025

Gurdhian Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Virender Kumar, Advocate, for the petitioner.

Ms. Simran Gorla, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present first petition praying for granting regular bail in a case FIR No.116 dated 13.10.2020 under Sections 22C & 25 (section 29 added lateron) of the NDPS Act, 1985, at Police Station Nandgarh, District Bathinda.

2. Succinctly, facts of the case are that on 13.10.2020, the police had set up a barricade approximately one kilometer behind the village Nandgarh, towards the side of Bathinda city. During this operation, they observed a young man coming on a motorcycle bearing No.PB 30 T 3875. A black kit bag was placed on the motorcycle's petrol tank. Upon noticing the police, he got perplexed and attempted to turn back. On asking of the police, he disclosed his name as Harjinder Ram @ Namepal. He was suspected of carrying contraband in the bag he was holding, and, accordingly, he was offered to be searched. On conducting search of the bag, 38 mini bottles of intoxicant was recovered. He failed to produce any licence regarding the possession of the same. Hence, the FIR was registered and he was arrested



on the spot. On registration of the FIR, the investigation commenced. Sample taken were sent to the FSL. On completion of the investigation, the challan was presented. During the investigation, the accused made a disclosure statement regarding complicity of the present petitioner Gurdhian Singh, alleging that he was the supplier of the contraband recovered from him. Consequently, the petitioner was also arrayed as an accused and was arrested on 20.08.2024. The petitioner approached the Special Court at Bathinda, 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 10.10.2024. Hence, the petitioner has approached this Court praying for grant of regular bail by way of filing the present second petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He submits that neither any recovery was effected from the petitioner, nor he was arrested on the spot. He has been implicated only on the basis of the disclosure statement of the co-accused, which is not admissible in evidence. He further submits that there was a violation of Section 50 of the NDPS Act, as the contraband were recovered from the co-accused. It is also submitted that no independent witness was joined at the time of recovery. He, thus, submits that in view of the facts and circumstances, it is apparent that a false case has been deliberately planted against the petitioner. It is further submitted that co-accused, from whom the recovery has been effected, has already been granted bail. Thus, he submits that the petitioner deserves to be granted bail.



4. Per contra, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. She submits that the recovery effected in this case is 37 mini bottles of intoxicant, which is a commercial quantity, thereby, attracting the provisions of Section 37 of the NDPS Act. Further, it is submitted that investigation has established that the petitioner was the supplier of the contraband recovered from the co-accused. She, on instructions, submits that out of 12 witnesses, only 2 prosecution witnesses have been examined so far. She verifies the factum of bail to the co-accused. She has also placed on record the custody certificate of the petitioner on record.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner has been arrayed as an accused solely on the basis of the disclosure statement of the co-accused. However, the co-accused is already on bail. The custody certificate reflects that the petitioner has suffered incarceration of 10 months & 18 days as on 08.07.2025.

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.



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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. It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.

10. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

10.07.2025
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Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No