



CRM-M-15906-2025

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

CRM-M-15906-2025

Date of Decision: 22.05.2025

Amil Khan @ Amir

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Sauhard Singh Hooda, Advocate
for the petitioner through VC.

Mr. Tanuj Sharma, AAG, Haryana.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting him regular bail in case FIR No.291 dated 16.04.2023 under Section 21-C of NPDS Act, 1985 (Sections 27-A, 29 of NDPS Act, 1985 added lateron), registered at Police Station City Yamunanagar, District Yamunanagar.

2. As per facts of the case, on 16.04.2023 the Police party received a secret information to the effect that Shahid son of Zulfikar Khan is involved in selling smack and he brings heroin/smack from Uttar Pradesh and supplies the same to the Sabji Mandi or Industrial Area in Yamuna Nagar. It was informed that Shahid was to come to Yamuna Nagar to supply heroin/smack in a black bag and he would come on foot towards Sabji Mandi or Industrial Area to sell the contraband. In case of *naka*, he could be arrested alongwith the contraband. On receiving the same, *ruka* was sent under Section 42 of the NDPS Act and raiding party reached at the disclosed place. One young boy was seen coming on foot from Kamani Chowk towards Sabji Mandi road carrying black coloured bag in his right hand. On suspicion, he was stopped. On asking, he disclosed his name as Shahid. He was suspected to be carrying some contraband in the black bag which he was



carrying. Thus, on being given the offer for search, the black bag carried by him was searched. Heroin/smack was found in the same, which on weighing was found to be 342 grams alongwith the polythene and the empty foil was found to be 7 grams. Thus, net weight of the recovered contraband was 335 grams. He failed to produce any licence regarding the possession of the same. Thus, the FIR was registered and he was arrested on the spot. The investigation commenced and during the investigation, disclosure statement of accused Shahid was recorded, wherein, he disclosed about the involvement of one co-accused Musahid Beg, however, he was granted anticipatory bail by this Court vide order dated 18.08.2023. During further investigation, disclosure statement of accused Musahid Beg was recorded, wherein, he disclosed about the complicity of the petitioner, namely Amil Khan @ Amir and thus, he was arrayed as an accused in this case and thereafter, arrested on 15.01.2025. The petitioner approached the Court of learned Additional Sessions Judge, Yamuna Nagar 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 11.03.2025. Hence, the petitioner approached this Court praying for grant of bail by way of filing the present petition.

3. It has been vehemently contended by counsel for the petitioner that petitioner has been falsely and frivolously implicated in this case. He has submitted that neither the petitioner was named in the secret information nor any recovery has been made from him. He submits that recovery as alleged is 335 grams of smack which was effected from co-accused Shahid, who made a disclosure statement about co-accused Musahid Beg and it is on



his disclosure statement, the petitioner has been named as an accused in the present case. He submits that even otherwise, the disclosure statement of the co-accused in itself is not an admissible evidence. He submits that the petitioner is facing prosecution in one more case, which was also registered on the basis of disclosure statement of the co-accused wherein recovered contraband was non-commercial quantity and the petitioner was also granted bail in the same. He submits that co-accused Musahid Beg on whose disclosure statement, the petitioner was arrested has also been granted anticipatory bail by this Court vide order dated 18.08.2023. He submits that the investigation is complete and thus, in the facts and circumstances of the present case, the petitioner deserves to be granted bail.

4. Status report by way of affidavit of Kanwaljeet Singh, HPS, Deputy Superintendent of Police, Yamuna Nagar filed in Court is taken on record. Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the contraband recovered from the co-accused, namely, Shahid was a commercial quantity, thus, provisions of Section 37 of NDPS Act, are attracted in this case. He submits that as per the disclosure statement made by the co-accused, namely, Musahid Beg, the petitioner was the supplier of the contraband. He submits that investigation is complete and charges are framed, however, out of total 26 prosecution witnesses, only 02 witnesses have been examined so far. He has placed on record the custody certificate of the petitioner.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner was arrayed as an accused in the present case on the basis of the disclosure statement of co-accused Musahid



Beg. However, the said co-accused has already been granted anticipatory bail by this Court vide order dated 18.08.2023. Investigation is complete and charges are framed. Out of total 26 prosecution witnesses, 02 witnesses have been examined. The custody certificate of the petitioner would show that the petitioner has completed incarceration of 04 months & 07 days as on 21.05.2025. Though he is prosecuted in one more case, however, he is on bail in the same.

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.

(RAJESH BHARDWAJ)
JUDGE

22.05.2025

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