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

1. CRM-M-17180-2025 (O&M)

Gurcharan Singh @ ChannaPetitioner

versus

State of Punjab Respondent

2. CRM-M-23108-2025

Sunil Singh @ LovelyPetitioner

versus

State of Punjab Respondent

Date of decision : 22.07.2025

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Karandeep Singh Sidhu, Advocate
for the petitioners.

Ms. Simran Gorla, A.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. By way of this common order, I intend to dispose of abovesaid two petitions as they have arisen out of the same FIR.

2. Petitioners have approached this Court by way of present petitions praying for granting them regular bail in case FIR No.189 dated 26.09.2023, under Section 21(c) of NDPS Act, registered at Police Station Guruharsahai, District Ferozepur.

3. Succinctly the facts of the case are that on 26.09.2023, the police party while on patrolling received a secret information to the effect that Gurcharan Singh @ Channa (petitioner), Sukhdev Singh @ Sukha and Sunil Singh @ Lovely (petitioner), were involved in smuggling of



heroin. It was informed that they would come on their motorcycle along with the contraband and if nakabandi is done, then they could be arrested along with contraband. On receiving the secret information, the barricading was laid by the police party at the place disclosed. All the 03 persons were seen coming in their motorcycle and they were stopped by the police party. On asking, they disclosed their names as Gurcharan Singh @ Channa, Sukhdev Singh @ Sukha and Sunil Singh @ Lovely. Gurcharan was carrying a bag. They were suspected to be carrying some contraband in the same and thus, the offer was given to be searched and on conducting search, 1 Kg 873 grams of heroin was recovered the bag. They failed to produce any licence for the possession of the contraband and thus, they were arrested on the spot. The FIR was registered and on registration of FIR, investigation commenced. Samples taken were sent to the FSL. On completion of investigation, challan was presented and the learned trial Court on framing the charges proceeded with the trial. The petitioners approached the Court of Ld. Judge, Special Court, Ferozepur for grant of bail, however, after hearing both the sides and finding no merits, their applications were declined by the trial Courts vide orders dated 02.08.2024 and 10.01.2025, respectively. Aggrieved by the same, the petitioners are before this Court by way of filing the present petitions.

4. It has been vehemently contended by learned counsel for the petitioners that the petitioners have been implicated in the present case on the basis of a secret information, however, there is violation of mandatory provisions of Section 42 of the NDPS Act. It is submitted that there is violation of Section 50 of NDPS Act, as well. It is also submitted that the investigating agencies have not joined any independent witness whereas the alleged recovery is from a public place. It is submitted that both the



petitioners have no criminal antecedents as they have never been involved in any other case. It is submitted that they are behind bars since the date of their arrest, however, the prosecution has not examined any witness till date only in order to prolong the incarceration of the petitioners. It is submitted that in the facts and circumstances of the present case, petitioners deserve to be granted regular bail.

5. Short reply (in CRM-M-17180-2025) by way of affidavit of Mr. Satnam Singh, PPS, Deputy Superintendent of Police, Sub Division, Guruharsahai, District Ferozepur has been filed on behalf of respondents-State, in the Court today, same is taken on record.

6. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioners. She submits that the recovery effected in the present case is on due compliance of Sections 42 and 50 of the NDPS Act. She submits that 1 kg 873 kg of heroin was recovered which is a commercial quantity and thus, provisions of Section 37 of NDPS Act are attracted in this case. She, on instructions, has submitted that out of total 11 prosecution witnesses, 04 witnesses have given up, however, no witness has been examined out of 07 remaining witnesses. She further submits that the petitioners have no criminal antecedents.

7. On hearing counsel for the parties and perusing the record, it is deciphered that the petitioners are behind bars since 26.09.2023. The recovery effected from 03 of the accused is 1 kg 873 gms of heroin. As submitted, petitioners have no criminal antecedents and no witness has been examined by the prosecution till date.

8. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental



right of every accused. 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.

20. xxxxx

21.it 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.

22. xxxxx

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.

9. 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. 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 petitioners succeed in making out a case for grant of regular bail. Accordingly, both the petitions are allowed. Petitioners are ordered to be released on bail on their 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. Pending application bearing CRM-27527-2025 stands infructuous.
10. Photocopy of this order be placed on the file of other connected cases.

22.07.2025
ps-I

(RAJESH BHARDWAJ)
JUDGE

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