

2025:PHHC:091487



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

CRM-M-20139-2025
Date of Decision: 23.07.2025

Jaspal Singh @ Ghugi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vinod K. Kaushal, Advocate
for the petitioner(s).

Ms. Simran Gorla, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present 3rd petition praying for granting regular bail in case FIR No.177 dated 24.09.2023 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 29/61/85 of the NDPS Act were added later on) registered at Police Station Lopoke, District Amritsar Rural, Amritsar.

2. Succinctly, facts of the case are that on 24.09.2023, the police party while on patrolling saw a person coming on foot. On seeing the police party he got perplexed and turned back and started walking. On suspicion, he was apprehended and on asking, he disclosed his name Ranjit Singh @ Hawa. He was suspected to be carrying some contraband. After giving offer for the personal search, the same was conducted. Upon which, 254 grams heroin was recovered from the polythene found in the right side pocket of his pant. He failed to produce any licence regarding possession of the same. Hence, he was arrested on the spot and on registration of the FIR, the investigation commenced. During

investigation, he made a disclosure statement about the petitioner Jaspal Singh that the contraband was supplied by him. Thus, the petitioner was also arrayed as an accused. During his arrest on 13.10.2023, the police recovered another 50 grams of heroin from the possession of the petitioner. On completion of the investigation, the challan was presented. On framing of charges, the trial commenced. The petitioner approached the Court of Ld. 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 21.02.2025 (Annexure P-2). Thereafter, he approached this Court by way of filing petition CRM-M-1032-2024 which was dismissed on 15.01.2024 (Annexure P-3) and CRM-M-31890-2024, which was also dismissed as withdrawn on 11.11.2024. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present third petition.

3. It has been contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously roped in the present case. He submits that petitioner has been arrayed as an accused on the basis of the disclosure statement of the co-accused from whom 254 grams of heroin was recovered. He further submits that the disclosure statement is not admissible evidence. He further submits that thereafter 50 grams of heroin had been planted upon the petitioner. He submits that even otherwise the alleged recovery of heroin from the petitioner is weighing 50 grams falls under the non-commercial quantity. He submits that the petitioner is behind bars since the date of his arrest i.e. 13.10.2023 but till date there is no progress in the trial. He submits that petitioner is involved in one another case although he is on bail in that case. He, thus, submits that in view of 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. She submits that in the present case total quantity of recovered contraband is 254 grams heroin. She submits that the same was supplied by the petitioner. She further submits that from the possession of the petitioner another recovery of 50 grams of heroin was also effected. Thus, she submits that total recovery of heroin is 304 grams, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. It is submitted that out of total 11 prosecution witnesses, no witness has been examined so far. She 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 the petitioner was arrested on the basis of the disclosure statement of co-accused. Thereafter, when police arrested him, another alleged recovery of 50 grams of heroin was also effected. The petitioner is behind bars since 13.10.2023, however, out of total 11 prosecution witnesses, no witness has been examined till date. The custody certificate would reflect that the petitioner has suffered incarceration of 01 year, 09 months & 09 days as on 23.07.2025. It further reflects that the petitioner has no criminal antecedents. The petitioner is involved in one another case although he is on bail in that case

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. Thus, keeping in view the arguments raised by both the sides, 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.

23.07.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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