



251

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

CRM-M-20125-2025

Date of decision : 24.04.2025

Harpreet Singh @ Happy**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Amardeep Singh, 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 second petition praying for grant of regular bail to him in case FIR No.34 dated 19.09.2023, under Sections 21, 25, 29 of the NDPS Act (Section 25 NDPS deleted and Section 472 of IPC added), registered at Police Station State Special Operation Cell, Amritsar, District Amritsar.
2. Succinctly facts of the case are that the police party on 19.09.2023 received a secret information that Rajbir Singh @ Raja and Harpreet Singh @ Happy (petitioner) were involved in smuggling of Heroin. It was informed that they have connections with Pakistani smugglers and thus, they operate on Indo-Pak Border. It was further informed that they were going to deliver the consignment of Heroin which they have received at the instance of Pakistani smugglers and hence, standing on the road from Village Naushehra Dhalla to Village Cheema waiting on their motorcycle. On receiving the information, the raiding team was constituted and naqa was laid. The motorcycle as disclosed was



seen coming on which two persons were coming. They were stopped and on asking, the person who was driving the motorcycle disclosed his name to be Rajbir Singh @ Raja whereas, the pillion rider disclosed his name as Harpreet Singh @ Happy (petitioner) who was carrying the bag. It was suspected that they were carrying some contraband in the same and thus, search of the bag was conducted. On conducting the search, 800 grams of Heroin was recovered from the same. They failed to produce any license regarding the possession of the same and thus, both were arrested on the spot. On registration of the FIR, investigation commenced and the samples taken were sent to the FSL. On completion of the investigation, challan was presented and charges were framed. Petitioner approached the Court of learned Judge, Special Court, Tarn Taran praying for grant of bail. However, after hearing counsel for the parties, learned Judge, Special Court, Tarn Taran declined the same vide order dated 04.06.2024. Being aggrieved, petitioner approached this Court earlier by way of filing of CRM-M-33144-2024 praying for grant of bail, however, the same was dismissed as withdrawn vide order dated 05.11.2024. Hence, the petitioner is before this Court by way of filing the present second petition.

3. Learned counsel for the petitioner has vehemently contended that petitioner has been falsely and frivolously implicated in the present case. He submits that the case of the prosecution is based on secret information however, there is violation of mandatory provisions of Section 42 of the NDPS Act. He submits that the alleged recovery was made from the public place but no independent witness was joined at the time of recovery. He prays for grant of bail on the basis of parity with that of the co-accused. He has drawn the attention of this Court to the order



passed by this Court in **CRM-M-4065-2025** dated 28.03.2025 whereby co-accused of the petitioner, namely, Rajbir Singh @ Raja, has been granted the concession of bail. He has submitted that case of the petitioner is at par with the co-accused, who has been granted bail by this Court. He submits that on the basis of the parity, petitioner deserves to be granted bail as case of the petitioner is similar to that of the co-accused, who has already been granted bail.

4. Learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the recovery from the petitioner was effected on the basis of secret information received. It is submitted that the recovery effected from the petitioner was 800 grams of Heroin which is a commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted in the case. He, on instructions, submits that out of 21 prosecution witnesses, no witness has been examined till date. He has produced the custody certificate of the petitioner and submits that another case i.e. FIR No.127 dated 28.10.2023 under Sections 21-C, 29, 61, 85 of NDPS Act, Sections 10, 11, 12 of Air Craft Act and Section 52-A of Prison Act, was registered against the petitioner, subsequent to the present FIR. However, endorsed the fact that except the second FIR, the case of petitioner is at par with co-accused, namely, Rajbir Singh @ Raja, who has already been granted bail by this Court.

5. 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 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.'*

6. After hearing counsel for the parties and perusing the record, it is deciphered that the FIR in the present case has been registered on the basis of the secret information. Though custody certificate reveals that the



petitioner is facing prosecution in one more case but the same itself cannot be a ground for non-consideration of bail of the petitioner. Admittedly, co-accused of the petitioner, namely, Rajbir Singh @ Raja, has already been granted bail by this Court vide order dated 28.03.2025 passed in **CRM-M-4065-2025**.

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.

8. In case the bail bonds are not furnished by the petitioner during the period of 07 days from today, then his further custody period after one week will not be counted in the present case.

24.04.2025

ps-I

**(RAJESH BHARDWAJ)
JUDGE**

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