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

**CRM-M No.22155 of 2025  
Date of Decision: 02.12.2025**

**Balwinder Singh****..... Petitioner****Versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

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Present: Mr. Jashandeep Singh Sandhu, Advocate  
for the petitioner.

Mr. Amit Kumar Goel, AAG, Punjab.

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**RAJESH BHARDWAJ, J. (ORAL)**

1. Present second petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.51, dated 17.04.2024, under Section 15 of NDPS Act (Section 25 NDPS Act added later on), registered at Police Station Baghapurana, District Moga, Punjab.

2. Succinctly the facts of the case are that the police party, while on patrolling on 17.04.2024, received a secret information to the effect that Gurmeet Singh @ Gora and Balwinder Singh (petitioner) were involved in selling of Poppy Husk. It was informed that they would be coming in their Swift Car bearing registration No.PB-08-BT-0600 from village Cherik to Baghapurana and in case of barricading, they could be apprehended along with the contraband. On receiving the secret information, the police laid the barricading at the place as disclosed in the secret information and the car, as disclosed, was seen coming. However, on suspicion, the same was stopped by the police party. On asking, driver



of the car disclosed his name to be Balwinder Singh (petitioner) and the person sitting on the rear seat disclosed his name to be Gurmeet Singh @ Gora. They were suspected to be carrying some contraband and thus their personal search as well the car was conducted. On conducting the search of the car, 03 bags containing Poppy Husk from the rear seat of the car were recovered. The total contraband, on weighing was found to be 54 Kgs of Poppy Husk. They failed to produce any licence regarding the conscious possession of the same, thus the FIR was registered and both were arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On completion of the investigation, the challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Moga praying for the grant of bail, however after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Moga declined the bail application filed by the petitioner vide order dated 23.10.2024. Being aggrieved, the petitioner earlier approached this Court praying for the grant of bail by way of filing CRM-M-57749-2024, however the same was dismissed as withdrawn vide order dated 24.02.2025. Hence being aggrieved, the petitioner is again before this Court by way of filing the present second petition praying for the grant of bail.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. He has submitted that though the FIR has been registered on the basis of secret information, however, there is a violation of mandatory provisions of Section 42 of NDPS Act. He has submitted that the recovery has been effected from the public place, however, no independent witness has been



joined. He has submitted that there is a violation of mandatory provisions of Section 50 of NDPS Act as well in conducting the search. He has submitted that the petitioner is behind bars from last more than 1½ years, however, there is no material progress in the trial and thus, his right of speedy trial is miserably defeated. To buttress his arguments, he has submitted that the petitioner has never been involved in any other case of the similar nature. He has submitted that even otherwise the quantity weighing above 50 Kgs of Poppy Husk is commercial whereas the quantity recovered in the present case is 54 Kgs of Poppy Husk, which is marginally above the commercial quantity. He has submitted that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Learned counsel for the State has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that there was a specific secret information about the petitioner and thus, the barricading was laid. He has submitted that the contraband recovered in the present case weighing 54 Kgs of Poppy Husk is commercial in nature, and thus, the provisions of Section 37 of NDPS Act are attracted. He, on instructions, has submitted that out of total 13 prosecution witnesses, 04 witnesses still remain to be examined. He has produced custody certificate of the petitioner today in the Court and the same is taken on record.

5. Heard.

6. On hearing learned counsel for the parties and perusing the record, it is deciphered that the FIR was registered on the basis of secret information. The petitioner was arrested on the spot on 17.04.2024. The alleged recovery of 54 Kgs of Poppy Husk is found to be commercial in



nature. Custody certificate produced would show that the petitioner has suffered incarceration of 01 year, 07 months and 11 days on the 01.12.2025. It further reflects that the petitioner has never been involved in any other cases of the similar nature. Out of 13 prosecution witnesses, 04 witnesses still remain to be examined. Needless to say that every accused has the fundamental right of speedy trial.

7. 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:-

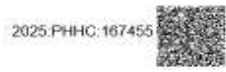
*19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as 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”<sup>22</sup> (also see Donald Clemmer’s ‘The Prison Community’ published in 1940<sup>23</sup>). 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.”*

8. 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.
9. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for the grant of bail.
10. 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.

(RAJESH BHARDWAJ)  
JUDGE

02.12.2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No