

2025:PHHC:103269



215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23808-2025
Date of Decision: 11.08.2025

Simarjit Singh alias Simarjeet Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sukhveer S. Killianwali, Advocate
for the petitioner.

Ms. Simran Gorla, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in case FIR No.246 dated 19.11.2023 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Gharinda, Amritsar.

2. Succinctly, facts of the case are that on 19.11.2023, the police party while on patrolling, saw three young men standing near the bushes and were talking to each other. On seeing the police they got perplexed and started running. They were apprehended by the police officials. On asking, they disclosed their names as Simranjit Singh (petitioner), Rakesh Singh and Sarabjit Singh. They were suspected to be carrying some contraband and offer of search was given. On conducting the search, from the right pocket of the trouser of Simranjit Singh (petitioner), a transparent wax envelope was found from which 365 grams of heroin was recovered and from the search of the rest

of the two accused Rakesh Singh and Sarabjit Singh no contraband was recovered. They failed to produce any licence regarding the conscious possession of the same and thus, the FIR was registered and they were arrested on spot. Samples taken were then sent to the FSL. On registration of the FIR, the investigation commenced. On receiving the report from the FSL, the challan was presented. On framing of charges, the trial commenced. The petitioner approached the Court of learned 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 27.03.2025. Hence, the petitioner has approached this Court praying for grant of regular bail by way of filing the present petition.

3. It has been contended by learned counsel for the petitioner that the petitioner has been roped falsely and frivolously in the present case. He submits that there is violation of mandatory provisions of the NDPS Act. He further submits that the alleged recovery has been effected from a public place, but independent witness has not been joined. He submits that personal search of the petitioner was also carried out and thus, there is violation of Section 50 of the NDPS Act as well. He submits that recovery as alleged to have been effected is totally a planted recovery. He submits that the petitioner has no criminal antecedents, as he has never been involved in any other case. It is submitted that the petitioner has completed incarceration of about one and a half year, but there is no progress in the trial. He further submits co-accused namely Rakesh Singh and Sarabjit Singh @ Sarbjeet Singh have already been granted concession of regular bail by this Court vide order dated 20.05.2025 passed in CRM-M-13373-2024 and order dated 09.08.2024 passed in CRM-M-37753-2024, respectively. 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 has submitted that on due compliance of Sections 42 and 50 of the NDPS Act, recovery of 365 grams of heroin was effected from the petitioner, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. She submits that the petitioner is involved in one more case. It is submitted that out of total 12 prosecution witnesses, no witness has been examined so far. She has placed on record the custody certificate of the petitioner. However, she affirms the factum of concession of regular bail already granted to co-accused namely Rakesh Singh and Sarabjit Singh @ Sarbjeet Singh.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested in the present case on 19.11.2023. Two co-accused have already been granted concession of regular bail by this Court. As per learned State counsel, petitioner is involved in one more case, however, custody certificate reveals that the petitioner is not involved in any other case. Out of total 12 prosecution witnesses, no witness has been examined till date. The custody certificate would reflect that the petitioner has suffered incarceration of 01 year, 08 months & 16 days as on 08.08.2025.

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.

11.08.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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