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

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Date of decision: 15.10.2025

DHIR SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

Present: Mr. Impinder Singh Dhaliwal, Advocate for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

SUBHAS MEHLA, J. (ORAL)

1. By way of the present petition, the petitioner is seeking regular bail in FIR No.88 dated 05.08.2024 under Sections 15(b) of NDPS Act, 1985 (offence under Section 15(c) of NDPS Act added vide GD No.22, dated 21.09.2024) registered at Police Station Gidderbaha, Sri Muktsar Sahib.

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. The recovery of contraband was effected from the car, in which the petitioner along with co-accused was travelling. The petitioner has no concern with the alleged recovery and nothing has been recovered from him. The petitioner is in custody for the last more than one year and he is first time offender and he has clean antecedents and is not involved in any other case. The similarly placed co-accused, namely, Rajinder Singh @ Raja and Surjeet Singh have been granted concession of bail by a Co-ordinate Bench of this Court vide orders dated 07.07.2025 and 25.08.2025. Out of 13

prosecution witnesses, only 01 has been examined and 01 has been given up; all

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the prosecution witnesses are police officials; the trial is expected to take considerable time to conclude. Therefore, it is prayed that the petitioner be released on regular bail.

3. On the other hand, learned State counsel vehemently opposed the prayer for grant of regular bail to the petitioner by submitting that the alleged contraband falls under the category of commercial quantity which was recovered from the car, in which the petitioner along with co-accused was travelling and the case of the present petitioner is not on the same footing as the co-accused, namely, Rajinder Singh @ Raja and Surjeet Singh were arrested on the disclosure statement and contraband recovered from them falls under the category of non-commercial quantity and the drug money amounting to Rs.5,50,000/- was also recovered from co-accused, Surjeet Singh. On instructions, Ld. State counsel further submits that out of 13 prosecution witnesses, only 01 has been examined and 01 has been given up.

4. Heard.

5. Keeping in view the facts and circumstances of the case and the fact that the petitioner is in custody for the last more than 1 year and has clean antecedents; out of 13 prosecution witnesses, only 01 has been examined and 01 has been given up; the recovery of contraband was effected from the car, in which the petitioner along with co-accused was travelling; since the prosecution witnesses are police officials, trial will take sufficient time to conclude and no fruitful purpose would be served by keeping him in custody for any further period, as concession of bail cannot be denied just as measure of punishment and it is trite principle of criminal jurisprudence that bail is rule and jail is an exception, this Court deems it a fit case to grant the concession of regular bail to

the petitioner.



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6. Moreover, the Hon'ble Apex Court in **Dheeraj Kumar Shukla Vs. State of UP 2023 SCC Online SC 918** observed that where the quantity recovered from the petitioner is commercial in nature but the petitioner is a first time offender, the rigors of Section 37 of NDPS Act can be relaxed. The relevant para is reads as under:-

“ xxx xxx xxx xxx

It is true that the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be attracted. However, in the absence of criminal antecedents and the fact that the petitioner in custody for the last two and a half years, we are satisfied that the conditions of Section 37 of the Act can be dispensed with.....”

7. Therefore, without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing requisite bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

7. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

8. Pending application(s), if any, stand disposed of.

15.10.2025
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(SUBHAS MEHLA)
JUDGE

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