



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

241

**CRM-M-25257-2025
Decided on : 01.12.2025**

Harpreet Singh @ Ricky

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present : Ms. Lavanya Gupta, Advocate
for the petitioner.

Mr. Amit Shukla, DAG, Punjab
for the respondent-State.

RUPINDERJIT CHAHAL, J (ORAL)

1. Prayer in the instant petition filed under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is for grant of regular bail to the petitioner in case FIR No.57 dated 12.04.2020, registered under Sections 21 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Dakha, District Ludhiana Rural.

2. Brief facts as per the prosecution case are that on 12.04.2020, SI Amritpal Singh along with his fellow police officials was on curfew duty and on the basis of secret information, the present petitioner alongwith co-accused -Swaranjit Singh @ Sunny and Jaspreet Singh @ Jassi were apprehended and from their possession, 255 grams of heroin, one computer scale, currency notes of Rs.15,770/-, ten empty plastic envelopes and car bearing No.PB-10-CQ-7071 make Innova, in which they were present, were recovered. Hence, the present FIR.



3. As a matter of fact, earlier the petitioner was granted the concession of regular bail by a Coordinate Bench of this Court vide order dated 03.12.2020. However, on 06.01.2024, he failed to appear before the learned trial Court, and resultantly, his bail was cancelled, bail bonds were forfeited followed by issuance of non-bailable warrants. He was later arrested in some other case and was arrested in the present case on 27.03.2025.

4. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. She submits that the petitioner was granted the concession of regular bail by co-ordinate bench and he was regularly appearing before the learned trial court. However, on 06.01.2024, the petitioner could not appear before the learned trial court as he was in custody in FIR no. 161 dated 29.12.2023, and thus his bail was cancelled by the learned trial court. She further submits that the absence of petitioner was unintentional and on the next date of hearing i.e. 22.03.2024, the counsel for the petitioner moved an application before the learned trial court for issuance of production warrants of the petitioner as he was lodged in Central Jail, Ludhiana in some other case but he was not produced before the learned trial Court. On merits, learned counsel for petitioner contends that the recovery of 255 grams of heroin is marginally above the commercial quantity and the contraband was weighed alongwith polythene bag and if the weight of the polythene bag is subtracted, the recovery will fall under non-commercial quantity. The petitioner has been in custody in the present case for more than 01 year and 03 months. The investigation in the case is complete, challan stands presented and charges have been framed, as such trial will take a long time to conclude and no useful purpose would be served by keeping him behind bars. Therefore, it is urged that the petition



deserves to be allowed.

5. Notice of motion.

6. Learned State counsel, who has appeared on advance notice of the petition, has filed the custody certificate of the petitioner, which is taken on record. Status report has already been filed. Learned State counsel has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature. He has submitted that the recovery of alleged contraband in the present case falls under the commercial quantity. He has further submitted that the petitioner is also involved in one more case meaning thereby he is a habitual offender.

7. Having heard learned counsel for the parties at length and after perusing the record of the case, it is evident that the petitioner has been in custody in the present case for more than 01 year and 03 months; the investigation in the case is complete, challan stands presented; charges have been framed and the fact that trial may take a long time to conclude, no useful purpose would be served by detaining the petitioner in further custody. His continued detention without the prospect of the trial being concluded in the near future would be violative of his rights under Article 21 of the Constitution of India.

8. Reliance is placed upon a judgment in the case of ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, wherein the Hon'ble Apex Court has held that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle "*bail is a rule*" and "*jail is an exception*".



9. Moreover, prolonged detention of the petitioner, without any likelihood of the trial being concluded in the near future, would amount to a violation of their fundamental rights guaranteed under Article 21 of the Constitution of India. The Hon'ble Supreme Court, in ***Mohd. Muslim @ Hussain v. State (NCT of Delhi)***, 2023 AIR SC 1648, while dealing with an NDPS case, held that the principles of fairness embodied under Article 21 override the statutory restrictions on grant of bail under Section 37 of the NDPS Act. Speaking through Justice S. Ravindra Bhat, the Court observed:

"20. The standard to be considered therefore, is one, where the court would look at the material in a broad manner, and reasonably see whether the accused's guilt may be proved. The judgments of this court have, therefore, emphasized that the satisfaction which courts are expected to record, i.e., that the accused may not be guilty, is only prima facie, based on a reasonable reading, which does not call for meticulous examination of the materials collected during investigation (as held in Union of India v. Rattan Malik). Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436A which is applicable to offences under the NDPS Act too (ref. Satender Kumar Antil supra). Having regard to these factors the court is of the opinion that in the facts of this case, the appellant deserves to be enlarged on bail.

21. Before parting, 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 . Jails are overcrowded and their living conditions, more often than not, appalling."

10. As regards the submission of learned State counsel that petitioner is involved in other/one more criminal case(s), reference is placed upon the judgment



of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** in which, it is held that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other/another case(s). The relevant portion of the said judgment is reproduced herein-below:-

"As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

11. In view of the above, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned. It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

01.12.2025
mamta

(RUPINDERJIT CHAHAL)
JUDGE

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