



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

CRM-M-27425-2025
Date of decision: 23.05.2025

GOMEYA SANDI PURTY

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gaurav Rana, Advocate for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 483 Bharatiya Nagrik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.60 dated 29.03.2024 under Sections 18/29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act") registered at Police Station Balongi, District SAS Nagar (Mohali).

2. The brief facts are that the present FIR was registered on 29.03.2024 when SI Harbhej Singh alongwith police party was present near Balongi Barrier where he received secret information that accused Gomeya Sandi Purty (petitioner herein) and Sita Ram Bodra were habitual of bringing heavy quantity of Opium from Jharkhand and used to sell the same in Punjab and they could be apprehended near Balongi Barrier. *Naka* was laid and accused were apprehended and from the possession of petitioner-Gomeya Sandi Purty, 2Kg-700 grams of Opium and from the possession of accused Sita Ram Bodra also 2Kg-700 grams of Opium was recovered.



3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case as 2 kgs and 700 grams of Opium was allegedly recovered from the petitioner. He further contends that the weight of the contraband includes the polythene, in which, the Opium was wrapped. Further, the commercial quantity provided under the Schedule V of the NDPS Act is more than 2 kgs and 500 grams, as such, the quantity involved in the present case is marginally higher than the non-commercial quantity. Furthermore, if the weight of the polythene is deducted from the entire recovered substance, it would come out to be less than the commercial quantity. Learned counsel submits that the petitioner is not involved in any other case. Learned counsel relies upon the judgment passed by this Court in ***Sikandar Singh vs. State of Punjab, 2005(2) RCR (Criminal) 810*** and submits that the error in weighing scale cannot be ruled out while granting the concession of regular bail. Moreover, no independent witness was joined by the police party, although, the place of recovery was thoroughfare and the police party was having prior secret information from an informer. Furthermore, there is non-compliance of Sections 42, 50 and 57 of NDPS Act and also a delay of 04 days in sending the representative sample to the Chemical Examiner.

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the prayer made by the petitioner on the ground that there is sufficient material available on record to prove his complicity. However, he could not controvert the fact that the petitioner is behind the bars since 02.04.2024 and is not involved in any other case.



5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 02.04.2024 and is not involved in any other case. The final report under Section 173 Cr.P.C. was presented before the concerned Court and subsequently, charges were framed. The trial of the case has not made much progress. The petitioner has already undergone a period of 01 year, 01 months and 20 days of custody and the delay in conclusion of trial cannot be attributed him.

6. Further still, the recovered contraband is Opium. However, the recovered quantity exceeds the non-commercial quantity for the said drug only by 200 grams. In cases, where the recovery only marginally breaches the threshold for commercial quantity of the alleged contraband, this Court has found it proper to grant regular bail. Reference in this regard can be made to the judgments rendered by this Court in ***Davinder Singh alias Baba vs. State of Punjab*** in ***CRM-M-64821-2023*** decided on 25.01.2024, ***Gurmeet Singh vs. State of Punjab*** in ***CRM-M-1007-2024*** decided on 15.01.2024, ***Ranjiti Singh @ Ranjit Kumar vs. State of Punjab*** in ***CRM-M-57185-2022*** decided on 10.01.2023, ***Jagtar Singh vs. State of Punjab*** in ***CRM-M-21460-2022*** decided on 08.02.2023, ***Harjeet Singh alias Sonu vs. State of Punjab*** in ***CRM-M-8242-2023*** decided on 15.01.2024, ***Jang Kanwar vs. State of Punjab*** in ***CRM-M-53415-2021*** decided on 19.01.2022.

7. Further, the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. Keeping the petitioner in further 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.

9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner-Gomeya Sandi Purty is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

10. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

May 23, 2025
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |