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

**CRM-M No.27649 of 2025
Date of decision : 23.05.2025**

Sonu Singh @ Sonu Bhandari @ Sonu

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Karandeep Singh Sidhu, Advocate
for the petitioner.

Ms. Simran Gorla, Asstt. A.G., Punjab.

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.169, dated 17.11.2023, under Sections 21/25/29/61/85 of NDPS Act, 1985, registered at Police Station Mamdot, District Ferozepur.

2. Succinctly the facts of the case are that the police party while on patrolling on 17.11.2023 received a secret information to the effect that Shinderpal Singh @ Shinder, Malkit Singh @ Kirat and Sonu were indulged in smuggling of heroin. It was informed that all three persons were coming towards Ferozepur in their Suzuki Celerio car along with the contraband and in case of barricading, they could be arrested along with the contraband. On receiving the information, the ruqa was sent and the raiding team was constituted. The barricading was laid at the place



disclosed, thereafter a Car as disclosed was seen coming and all the persons were apprehended by the police. On asking, driver of the car disclosed his name as Shinderpal Singh @ Shinder whereas rest of the two sitting in the car, disclosed their names as Malkit Singh @ Kirat and Sonu. They were suspected to be carrying some contraband and thus the car was searched. From the dashboard of the car, a packet of contraband was recovered which on weighing was found to be 1 kg 500 grams. All the 03 inmates failed to produce any licence regarding the conscious possession of the same and thus the FIR was registered and all of them were arrested on the spot. On registration of the FIR, the investigation commenced. During the investigation, rest of 02 accused Malkit Singh and Shinderpal Singh were found to be the juvenile and thus, they were released on bail. However the petitioner was found to be major. The petitioner approached the Court of learned Judge, Special Court, Ferozepur praying for the grant of bail. However, after hearing both the sides finding no merit in the same, the learned Judge, Special Court, Ferozepur declined the petition filed by the petitioner vide order dated 16.08.2024. Being aggrieved the petitioner earlier approached this Court by way of filing CRM-M-44030-2024, which was dismissed as withdrawn vide order dated 09.01.2025. Hence being aggrieved, the petitioner is before this Court by way of filing the present second petition praying for the grant of regular bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He has submitted that the FIR was 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 alleged recovery has been effected



from the public place, however there is no independent witness has been joined. He has submitted that there is a violation of Section 50 of NDPS Act as well at the time of conducting the recovery. He has submitted that rest of 02 of the accused were juvenile, however they are on bail. He has submitted that the petitioner has no criminal antecedents as he is not involved in any other case. He has submitted that the petitioner is behind bars since the date of his arrest, i.e.17.11.2023 and has suffered incarceration from last about 1½ years. He has submitted that there is no material progress in the trial. He has submitted that in the facts and circumstances, the petitioner deserves to be granted bail.

4. *Per contra*, learned counsel for the State however has opposed the submissions made by counsel for the petitioner. She, on instructions, has submitted that the petitioner was duly named in the secret information and on the due compliance of the provisions of NDPS Act, the search was conducted and the recovery of 1.5 Kg of heroin was effected from the car in which the petitioner was travelling with the co-accused. She has submitted that the contraband recovered falls under the category of commercial quantity and thus the provisions of Section 37 of NDPS Act are attracted. She, on instructions, has submitted that out of 20 prosecution witnesses, only 05 witnesses have been examined so far. She has placed on record custody certificate of the petitioner today in the Court and the same is taken on record.

5. Heard.

6. After hearing learned counsel for the parties and perusing the record, it is inferred that the FIR was registered on the basis of secret information. The recovery of the contraband has been effected on the



dashboard of the car, which on weighing found to be 1.5 kg and the same falls under the category of commercial quantity. Custody certificate shows that the petitioner has suffered incarceration of 01 year, 06 months and 01 day as on 22.05.2025. It further reflects that the petitioner has no criminal antecedents. As submitted before this Court, only 05 prosecution witnesses have been examined so far.

7. After perusal of the order passed by the Hon'ble Supreme Court in **Mohd Muslim @ Hussain vs. State (NCT of Delhi), 2023 Live Law (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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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.*

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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" (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.'*

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. 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

23.05.2025

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