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

(1). **CRM-10691-2025 in/and
CRM-M-30974-2024
Date of Decision: 24.04.2025**

Krishan @ Ram Krishan @ Jhaku @ Ramlal ...Petitioner
Versus
Union of India ...Respondent
and

(2). **CRM-12372-2025 in/and
CRM-M-31405-2024**

Sukhwinder Singh @ Chhinda @ Rahul ...Petitioner
Versus
Union of India ...Respondent
and

(3). **CRM-M-42957-2024**

Sukhwinder Singh @ Sukha ...Petitioner
Versus
Union of India ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Yashpal Thakur Advocate
for the petitioner in CRM-M-30974-2024.

Ms. Manpreet Ghuman, Advocate
for the petitioner in CRM-M-31405-2024.

Mr. Parminder Singh Sekhon, Advocate
for the petitioner in CRM-M-42957-2024.

Ms. Puneeta Sethi, Senior Panel Counsel
for the respondent-UOI.

Mr. Rajiv Sharma, Special Public Prosecutor
for respondent No.3-NCB.

Mr. J.S. Arora, DAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

CRM-10691-2025 and CRM-12372-2025

Application(s) under Section 528 of BNSS has been filed for placing on record complaint made by Narcotics Control Bureau, which is taken on record subject to all just exceptions.

CRM(s) stands disposed of.

Main cases

1. By way of this common order, I intend to dispose of abovesaid three petitions as they have arisen out of the same FIR.
2. Petitioner(s) has approached this Court by way of present petition praying for granting regular bail in Crime No.01 dated 06.01.2024 under Sections 8, 20, 25, 29 and 60 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station NCB, Chandigarh, District Chandigarh (Annexure P-1).
3. Succinctly, facts of the case are that on 05.01.2024, the Narcotics Control Bureau (NCB), Chandigarh received a secret information to the effect that Sukhwinder Singh @ Chhinda @ Rahul and Sukhwinder Singh @ Sukha were coming in black colour Hero Splendor motorcycle having no number plate with good quantity of Charas from Bhuntar, Kullu (HP) and they will go to their village Aakkar via Ropar-Morinda. If a raid is conducted, they could be arrested alongwith the contraband. On receiving the information, a raiding party of the NCB was constituted and thereafter, they spotted the motorcycle which was tallied with the secret information received. On reaching the spot, the NCB team intercepted them and on asking, they disclosed their names Sukhwinder Singh @ Chhinda @ Rahul and Sukhwinder Singh @ Sukha. After giving offer

for the personal search, the same was conducted and from their bag three packets were found, which were checked and Charas was found therein. On weighing the same, it was found to be 1.490 Kg. They failed to produce any licence regarding possession of the same. Hence, they were arrested on the spot and on registration of the complaint/crime, the investigation commenced and recovered substance was sent to the FSL lab and the challan was presented. On framing of charges, the trial commenced. The petitioners approached the Court of learned Judge, Special Cout, Rupnagar praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail applications filed by the petitioners vide order dated 05.03.2024 and 02.05.2024. Hence, all three petitioners have approached this Court praying for grant of bail by way of filing the present first petition(s).

4. It has been contended by learned counsel(s) for the petitioners-Sukhwinder Singh @ Chhinda @ Rahul and Sukhwinder Singh @ Sukha that the petitioners have been falsely roped in the present case on the basis of the secret information. They submit that the case of the prosecution is based on the secret information, however, there is violation of Section 42 and other mandatory provisions of the NDPS Act. They further submit that the alleged recovery has been effected from a public place, but independent witness has not been joined. They submit that personal search of the petitioners was also carried out and thus, there is violation of Section 50 of the NDPS Act as well. They submit that recovery as alleged to have been effected is totally a planted recovery. They further submit that the petitioners have no criminal antecedents, as they have never been involved in any other case. They, thus, submit that in view of the facts and circumstances of the case, the petitioners deserve to be granted bail.

5. Learned counsel for the petitioner-Krishan @ Ram Krishan @ Jhaku @ Ramlal submits that even petitioner was not named in the FIR and he

has been falsely implicated in the present case on the basis of disclosure statement of co-accused, from whom the alleged recovery has been made and thus, disclosure statement is not admissible evidence. He submits that though the petitioner is involved in two other cases, which were registered way back 15 years ago and he has already been acquitted in those cases. It is submitted that the petitioner has completed incarceration of more than one year, but there is no progress in the trial. He, thus, submits that in view of the facts and circumstances of the case, the petitioner deserves to be granted bail.

6. Per contra, learned counsel for the Narcotics Control Bureau has opposed the submissions made by counsel(s) for the petitioners. He submits that petitioners Sukhwinder Singh @ Chhinda @ Rahul and Sukhwinder Singh @ Sukha were duly named in the case and arrested at the spot and complicity of all the petitioners is duly proved as they were in communication with each other. He has submitted that on due compliance of Sections 42 and 50 of the NDPS Act, recovery of 1.490 Kg. of charas was effected from the petitioners namely Sukhwinder Singh @ Chhinda @ Rahul and Sukhwinder Singh @ Sukha, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. He further submits that the testimony of the official witnesses rest as far, thus, there is no flaw in the prosecution case. He has placed on record the custody certificate of the petitioners.

7. After hearing counsel for the parties and perusing the record, it is deciphered that the present FIR has been lodged on the basis of the secret information. Recovery allegedly effected from the petitioners is commercial one. The custody certificate would reflect that the petitioners-Sukhwinder Singh @ Chhinda @ Rahul and Sukhwinder Singh @ Sukha have suffered incarceration of 01 year 03 months & 14 days as on 23.04.2025 and Krishan @ Ram Krishan @ Jhaku @ Ramlal has suffered incarceration of 01 year, 03 months and 12 days

as on 24.04.2025. It further reflects that the petitioners Sukhwinder Singh @ Chhinda @ Rahul and Sukhwinder Singh @ Sukha have no criminal antecedents although petitioner Krishan @ Ram Krishan @ Jhaku @ Ramlal is involved in two other cases but he has already been acquitted in those cases.

8. 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.'

9. 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 petitioners succeeds in making out a case for grant of regular bail to the petitioners.

10. Accordingly, the present petition(s) is allowed and the petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

11. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

12. A photocopy of this order be placed on the files of other connected cases.

24.04.2025

Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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