



204

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

CRM-M-32053-2024

Date of decision : 28.03.2025

Gurdeep Singh Romana**....Petitioner****versus****Intelligence Officer, DRI****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Sourabh Goel, Special Public Prosecutor
for the respondent-DRI.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of regular bail in case complaint No.DRI F. NO.DRI/ASR/855(INT-5), dated 16.01.2024 under Sections 8, 21(C), 23(C), 27-A, 28, 29, 31, 60, 61 and 63 of NDPS Act, registered at Police Station Directorate of Revenue Intelligence, Amritsar.
2. Succinctly the facts of the case are that the Officers of DRI received a secret information on 22.07.2023 to the effect that one car bearing Registration No.PB03 BK0407, was informed to be coming with the narcotics. On receiving the secret information, barricading was laid and the car as disclosed, was seen. It was stopped and the driver of the car disclosed his name as Gurdeep Singh Romana and the lady sitting on front seat adjacent to driver seat introduced herself as Ms. Preet Kaur. The driver was suspected to be carrying a contraband and thus, the search was conducted and from the dashboard of the car, a packet containing 1 kg of heroin was recovered. Petitioner failed to produce any license regarding possession of the same and hence, the FIR was registered and the petitioner was arrested on spot. The investigation commenced and



samples taken from the contraband were sent to FSL. On receiving the FSL report, challan presented and on framing of charges, the trial Court proceeded with the trial. The petitioner approached the Learned Additional Sessions Judge, Tarn Taran praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Additional Sessions Judge, Tarn Taran vide order dated 15.04.2024. Aggrieved by the same, the petitioner is before this Court by way of filing of present petition for grant of bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He submits that the petitioner has been implicated in the present case for the reason that he was not arrested from the place as disclosed, however, he was arrested from a toll plaza, which is evident from the photographs as appended with this petition. It is submitted that the FIR was registered on the basis of secret information but there is violation of mandatory provisions of Section 42 of NDPS Act. He further submits that the compliance of Section 50 of NDPS Act, was mandatory, however, there is violation of the same as well. He submits that the petitioner is behind bars since the date of his arrest, however, there is no progress in the trial as till date the prosecution has not been able to examine even half of the witnesses. He submits that the petitioner has no criminal antecedents as he has never been involved in any other case. He submits that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Per contra, learned counsel for the respondent-DRI has vehemently opposed the submissions made by the counsel for the petitioner and submits that the car in which the petitioner was travelling, the intelligence regarding the same was received in emphatic terms and on



receiving the secret information, barricading was laid and the petitioner was driving this car. He submits that after giving the due offer, as per the mandate of the Act, recovery of 1 kg of heroin was made from the dashboard of the car. He submits that thus, there is no violation of Sections 42 and 50 of the NDPS Act. He further submits that the contraband recovered weighs 1 kg heroin, which is commercial in nature and thus provisions of Section 37 of NDPS Act, are attracted. He, on instructions, has submitted that out of total 11 prosecution witnesses only 04 have been examined. He has produced the custody certificate of the petitioner on record.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the FIR was registered in the present case on the basis of secret information. The petitioner was allegedly arrested in the present case on 22.07.2023 and he is behind bars since then. As per submissions, out of total 11 prosecution witnesses 04 have been examined. The custody certificate would reveal that the petitioner has no criminal antecedents. The contentions raised by both the sides would be evaluated by the trial Court on weighing the evidences and thus, the Court would refrain from commenting anything on the merits of the case.

6. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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.

20. xxxxx

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.

22. xxxxx

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.*



7. The veracity of the allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner. 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.

28.03.2025
ps-I

(RAJESH BHARDWAJ)
JUDGE

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