

2025:PHHC:077817



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

CRM-M-30102-2025
Date of Decision: 02.07.2025

Sanjiv Kumar @ Sanju @ Goldi @ Pamma ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Kamlesh, Advocate
for the petitioner(s).

Ms. Simran Gorla, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in case FIR No.144 dated 22.09.2022 under Sections 21/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City-II, Malerkotla, District Malerkotla.

2. Succinctly, facts of the case are that on 22.09.2022, while the police party was on patrolling spotted one grey coloured swift car coming from the front. On seeing the police, driver of the said car started to reverse the same and threw a white polythene bag from the car. Suspecting the same, driver of the vehicle was overpowered by the police party. On asking, he disclosed his name Surinderpal Singh @ Sunny. The polythene bag was searched and the same was found to be containing 60 grams of *chitta*/heroin along with currency notes of Rs.52,000/-. He failed to produce any licence regarding possession of the same. Hence, he was arrested on the spot and on registration of the FIR, the investigation commenced

and during investigation he made disclosure statement about the petitioner Sanjiv Kumar @ Sanju @ Goldi @ Pamma and thus, the petitioner was also arrayed as an accused. The police party apprehended the petitioner on 24.09.2022 and from his search 260 grams of heroin was recovered. After having been arrested the petitioner, the investigation commenced. The petitioner approached the Court of learned Judge, Special Court, Sangrur praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 22.11.2022. Thereafter, the petitioner approached this Court twice by way of filing CRM-M-54361-2023 and CRM-M-10412-2024 but the same were dismissed as withdrawn on 06.11.2023 and 17.07.2024. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present 3rd petition.

3. It has been contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. She submits that the name of the petitioner has been mentioned in the present case on the basis of the disclosure statement of co-accused Surinderpal Singh @ Sunny, from whom 60 grams of heroin have been allegedly recovered, who is already on bail. She further submits that 260 grams of heroin was planted upon the petitioner and the alleged recovery has been effected from a public place and independent witness has not been joined. She submits that there is violation of Section 50 of the NDPS Act. She submits that the petitioner is involved in another case for the offence of similar nature and he is not on bail. It is submitted that the petitioner is behind the bar since the date of his arrest i.e. 24.09.2022 but till date there is no progress in the trial. She, thus, submits that in view of the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. She has submitted that recovery of 260 gms. of

heroin was effected from the petitioner, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. She submits that in all there are 08 accused and out of them, 05 are on bail. She has placed on record the custody certificate of the petitioner and submits that the petitioner is a habitual offender as he is involved in two other cases for the offence of similar nature. On instructions, she submits that the charges have been framed and out of total 24 prosecution witnesses, no witness has been examined so far.

5. 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 disclosure statement of co-accused Surinderpal Singh, who is already on bail. Recovery allegedly effected from the petitioner is commercial one. He is involved in two other cases for the offence of similar nature although he is not on bail. Out of total 24 prosecution witnesses, no witness has been examined till date. The custody certificate would reflect that the petitioner is behind the bars since the date of his arrest and has suffered incarceration of 02 years, 09 months & 01 day as on 02.07.2025.

6. 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.’*

7. 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 petitioner succeeds in making out a case for grant of regular bail to the petitioner.

8. 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. However, if the

petitioner does not furnish the bail bonds within 07 days from today, then his further custody period after one week will not be counted in this case.

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

02.07.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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