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

**CRM-M No.32326 of 2025
Date of decision : 07.07.2025**

Sukhbir Singh @ Sukha**.....Petitioner**

versus

State of Punjab**..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. H. S. Sandhu, Advocate
for the petitioner.

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

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.36, dated 13.05.2024, under Sections 21/21-C, 29, 61, 85 of NDPS Act, 1985, registered at Police Station Valtola, District Tarn Taran, Punjab (Annexure P-1).

2. Succinctly the facts of the case are that the police party on 13.05.2024 received a secret information to the effect that Sukhbir Singh (petitioner), Ravinder Singh and Mandeep Singh @ Manna were involved in selling the contraband, i.e. heroin. It was informed that all three persons were to come in their car bearing registration No.PB-05-AF-9999 and in case of barricading, they could be arrested along with the contraband. On receiving the secret information, the FIR was registered and the barricading was laid. The police saw a car as informed in the secret



information in which 03 persons were travelling and thus was stopped. On asking, they disclosed their names as Sukhbir Singh (petitioner), Ravinder Singh and Mandeep Singh @ Manna. They were suspected to be carrying some contraband. On giving the offer, the search was conducted. On conducting the search, 260 grams of heroin was recovered from Ravinder Singh and 255 grams of heroin was recovered from Mandeep Singh, whereas from the search of Sukhbir Singh, i.e. the petitioner, no contraband was recovered. They failed to produce any licence regarding the conscious possession of the same and thus all three persons were arrested on the spot. The samples taken were sent to the FSL. The petitioner approached the Court of learned Additional Sessions Judge, Tarn Taran praying for the grant of bail. However, after hearing both the sides finding no merit in the same, the learned Additional Sessions Judge, Tarn Taran declined the petition filed by the petitioner vide order dated 13.05.2025. Hence being aggrieved, the petitioner is before this Court by way of filing the present 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 FIR in the present case has been 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 there is a violation of provisions of Section 50 of NDPS Act as well. He has submitted that even otherwise as per the case of prosecution, the recovery of 260 grams of heroin and 255 grams of heroin was recovered from the co-accused, namely, Ravinder Singh and Mandeep Singh. He has submitted that



though the petitioner is falsely implicated in other cases as well, however he is on bail in those cases. He has submitted that the petitioner is not involved in any other case under the NDPS Act. 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 specifically named in the secret information and during the search, he was along with the co-accused. She has submitted that from the co-accused, namely, Ravinder Singh and Mandeep Singh, 260 grams and 255 grams of heroin was recovered, which falls under the commercial quantity and thus the provisions of Section 37 of NDPS Act are attracted. She, on instructions, has submitted that in all there are 17 prosecution witnesses, out of which only 01 has 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 deciphered that FIR in the present case was registered on the basis of secret information. As per the case of prosecution, the recovery of 255 grams and 260 grams of heroin was recovered from the co-accused and not from the petitioner. The petitioner was arrested on the spot on 13.05.2024. Custody certificate produced by the learned State counsel would reveal that the petitioner has suffered incarceration of 01 year, 01 month and 18 days as on 06.07.2025. Custody certificate



produced would further shows that though the petitioner is involved in 04 other cases, however no other case is under the NDPS Act. Out of 17 prosecution witnesses, only 01 has been examined. The contraband recovered from the co-accused is commercial in nature.

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"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.’

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

07.07.2025

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Whether speaking/reasoned

Whether reportable

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(RAJESH BHARDWAJ)
JUDGE

Yes/No

Yes/No