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

CRM-M-35066-2024

Date of Decision: 25.07.2025

Surjit Singh @ Sita

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vishal Khatri, Advocate, for the petitioner.

Ms. Simran Gorla, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached by way of filing the present petition praying for grant of regular bail in case FIR No.37 dated 25.03.2023 under Sections 21/29/61/85 of NDPS, 1985 and Sections 25/54/59 of Arms Act, 1959, registered at Police Station Sadar Tarn Taran, District Tarn Taran.
2. Succinctly, facts of the case are that on 25.03.2025, the police party while on patrolling, received a secret information to the effect that Surjit Singh (petitioner) and Gagandeep Singh @ Gagan are involved in smuggling of heroin and illegal arms. It was informed that they would supply heroin and illegal weapons in their white coloured Verna Car bearing registration No.PB-08-EQ-8999 in the area of Tarn Taran. In case of barricading, they could be arrested alongwith the contraband and the illegal weapons. On receiving the secret information, the raiding team was constituted and barricading was laid at the place disclosed. The car as disclosed in the secret information was seen coming, in which two persons were sitting. On asking, the driver of the car disclosed his name as Surjit Singh and the person sitting next to him, disclosed his name as Gagandeep Singh. They were suspected to be carrying some contraband and illegal



weapons. Gagandeep was holding a bag and hence, police carried out the search and on conducting search of the bag, 4 kgs of heroin and Rs.60,000/- as drug money were recovered. From their personal search, .45 bore pistol alongwith 9 live cartridges was recovered from Surjit Singh and one pistol of .30 bore alongwith 10 live cartridges was recovered from co-accused Gagandeep Singh. Both were failed to produce any licence regarding possession of the same. Thus, the FIR was registered for the offences under the NDPS Act and Arms Act. Both the accused were arrested on the spot. On the registration of the FIR, the investigation commenced. Samples taken were sent to the FSL. On conclusion of the investigation, the Investigating Agency filed the challan and on framing the charges, the trial Court proceeded with the trial. The petitioner approached the Court of learned Judge, Special Court, Tarn Taran 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 09.02.2024. Hence, the petitioner has approached this Court praying for grant of regular bail by way of filing the present petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He submits that the FIR was registered on the basis of secret information, however, there is violation of mandatory provisions of Section 42 of the NDPS Act. He submits that the recovery was effected from a public place, however, no independent witness has been joined, thus, there is violation of Section 50 of NDPS Act as well. He submits that the petitioner is falsely implicated in seven other cases, however, in two cases, he has been acquitted



and in rest, he is on bail. He submits that the trial Court had given about 28 opportunities, but despite that the prosecution is intentionally not proceeding with its witnesses and hence, till date only one witness has been examined. He submits that incarceration of the petitioner is being prolonged by the prosecution deliberately. He, thus, submits that in the overall facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Per contra, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. She has submitted that the petitioner is a habitual offender. It is submitted that the contraband recovered in the present case is 4 kgs of heroin, which is a commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted. She has submitted that illegal arm was also recovered from the petitioner. On instructions, she has submitted that out of 12 prosecution witnesses, only 01 witness has been examined. She has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the FIR in the present case was registered on the basis of the secret information. The petitioner was arrested 25.03.2023 and since then he is behind bars. As submitted before this Court, only one witness has been examined out of 12 prosecution witnesses. The custody certificate reflects that the petitioner has suffered incarceration of 02 years, 03 months & 25 days as on 24.07.2025. It further reflects that the petitioner is involved in seven other cases. Though the petitioner is involved in other cases, but that in itself cannot be ground for non-consideration of his bail. Speedy trial is the fundamental right of every accused, irrespective of the cases, he is facing



prosecution.

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. As per law settled, speedy trial to the petitioners despite his involvement in multiple cases cannot be taken away. The trial of the case is likely to take sufficient time. Speedy trial is the right of every accused. The Hon'ble Supreme Court in Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695 has held as under:

“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.”

8. The Hon'ble Supreme Court in a recent decision dated 03.07.2024 in Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

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. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned



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

10. 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.

11. It is being clarified that in case, the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.

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

(RAJESH BHARDWAJ)
JUDGE

25.07.2025

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Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No