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

**CRM-M No.36152 of 2025
Date of decision : 15.07.2025**

Jasbir Singh @ Judge

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Dilpreet Singh Gandhi, 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.188, dated 30.09.2023, under Sections 21, 23, 25, 27-A, 29/61/85 of NDPS Act, 1985, registered at Police Station Gharinda, District Amritsar (Annexure P-1).

2. Succinctly the facts of the case are that the police party, while on patrolling on 30.09.2023, received a secret information to the effect that Jasbir Singh @ Judge (petitioner) had links with Pakistani Smugglers and after buying heroin from them, he smuggled the same in the area. It was informed that he was to come on scooter mark Suzuki Swiss-125 bearing PB09-R-1966 and in case of barricading, he could be arrested



along with the contraband. On finding the secret information reliable, the raiding party was constituted and the barricading was laid. The person riding on the scooty, as per the secret information, was found seen. On seeing the police party, he got perplexed and tried to take a u-turn from there. However the scooty slipped and he was over powered by the police party. On asking, he disclosed his name as Jasbir Singh @ Judge, i.e. the petitioner. He was suspected to be carrying some contraband and thus his search was conducted. On conducting the search, 1 Kg heroin strapped along with his waist was recovered. He failed to produce any licence regarding the conscious possession of the same and thus he was arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. The petitioner approached the Court of learned Judge, Special Court, Amritsar praying for the grant of bail. However, after hearing both the sides finding no merit in the same, the learned Judge, Special Court, Amritsar declined the petition filed by the petitioner vide order dated 27.05.2024. 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 the recovery has also been effected from the personal search of the petitioner and thus there is a violation of provisions of Section 50 of NDPS Act as well. He has



submitted that no independent witness was joined by the Investigating Agencies for proving the search conducted. He has submitted that the petitioner is behind bars since the date of his arrest, i.e. 30.09.2023 but till date, the prosecution has not been able to conclude the trial. 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 thus, on conducting his search, 1 Kg heroin was recovered. She has submitted that the recovery effected from the petitioner is commercial quantity and thus the provisions of Section 37 of NDPS Act are attracted. She, on instructions, has submitted that out of 11 prosecution witnesses, none has been examined till date. She has submitted that the petitioner is involved in one more case under the NDPS Act. 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. The petitioner was arrested on 30.09.2023 and he is behind bars since then. Custody certificate produced would show that the petitioner has suffered incarceration of 01 year, 09 months and 09 days as on 14.07.2025. It further reflects that the petitioner is involved in one more case under the NDPS Act. As submitted before this Court that



out of 11 prosecution witnesses, the prosecution has not examined even a single witness till date. 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.

15.07.2025

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Whether speaking/reasoned
Whether reportable

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Yes/No
Yes/No

(RAJESH BHARDWAJ)
JUDGE