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

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Date of decision: 19.12.2025

MOHAMMAD NABI

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Jasdeep Singh Gill, Sr. Advocate with
Ms. Harleen Kaur, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached by way of filing the present petition praying for grant of regular bail in case bearing FIR No.17 dated 11.01.2025 under Section 21-C of NDPS Act (Challan was presented under Sections 21-C, 27-A and 29 of NDPS Act, 1985), registered at Police Station Yamuna Nagar Sadar, District Yamuna Nagar, Haryana.

2. Succinctly, the facts of the case are that the police party, while on patrolling on 11.01.2025 received a secret information to the effect that Inshad S/o Dilshad was involved in selling smack/heroin. It was informed that he would sell heroin/smack to a customer on his Splendor motorcycle No.UP11-CN-7262 and is going from Sarsawa towards Kalanour. In case of barricading, he could be arrested along with the contraband. On receiving the secret information, the police laid the barricading at the place as disclosed and saw a person coming on a motorcycle. On suspicion, he was stopped and on asking, he disclosed his name to be Inshad. On giving offer, his search was

conducted and from the right pocket of his track suit, 552.4 grams of heroin

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was recovered. He failed to produce any license regarding the possession of the same. Thus, FIR got registered and investigation commenced. During investigation, petitioner was named in the disclosure statement of the co-accused being the supplier of the recovered contraband, and got arrested on 08.04.2025. The samples taken were sent to the FSL. On completion of the investigation, the challan was presented and on framing of charges, trial commenced. Petitioner approached the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri for grant of bail. However, after hearing both the sides and finding no merit in the same, the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri declined the bail application vide order dated 29.05.2025. Aggrieved by the same, petitioner is before this Court praying for the grant of bail by way of filing the present petition.

3. Learned Senior counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He submits that the case of the prosecution is based on the secret information, which was qua the co-accused, Inshad. He further submits that on the disclosure statement of Inshad, two more accused, namely, Amir Baig and Israr were named. It is on the disclosure statement of Amir Baig, the petitioner was implicated in the present case. He further submits that though the petitioner was falsely prosecuted in another case bearing FIR No.128 of 2025 under Sections 8/21 of NDPS Act and the petitioner was granted bail by the learned trial Court at Haridwar vide order dated 07.04.2025. He further submits that immediately after the grant of bail, on the very next day i.e. on 08.04.2025, the petitioner was implicated in the present case. He further submits that the disclosure statement of the co-accused in itself is not even an admissible evidence. He further submits that the co-accused namely, Israr has

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already been enlarged on bail. He further submits that challan has been presented and charges have been framed in the present case. He further submits that the prosecution witnesses are intentionally not appearing before the trial Court in order to prolong the petitioner's incarceration. He further submits that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. *Per contra*, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that in the present case, the recovery of 552.4 grams of heroin has been effected from the co-accused which falls within the category of commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. He further submits that ₹20,000 were recovered from the petitioner's rented room in pursuance of his confessional statement. On instructions, he submits charges have been framed, and out of total 19 prosecution witnesses, only 01 has been examined so far. He has produced custody certificate of the petitioner today in the Court and the same is taken on record. He further submits that the petitioner is involved in one more case under NDPS Act.

5. Heard.

6. On hearing learned counsel for the parties and perusing the record, it is deciphered that the name of the petitioner surfaced in the present case on the basis of disclosure statement of the co-accused, namely, Amir Baig. The contraband recovered weighing 552.4 grams was recovered from the co-accused, namely, Inshad. Custody certificate produced would show that petitioner has completed incarceration of more than 08 months and 08 days as on 18.12.2025. It further reflects that the petitioner is involved in one more

case under NDPS Act, however, he is on bail in the same. Out of 19



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prosecution witnesses, only 01 has been examined so far.

7. 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 petitioners are 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*



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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. The trial of the case will take sufficiently long time.

9. 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. Accordingly, the present petition is allowed. 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.

19.12.2025
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(RAJESH BHARDWAJ)
JUDGE

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