

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

2025:PHHC:119173



(238)

CRM-M-35752-2025

Date of Decision: 03.09.2025

Harjinder Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Bhawesh Chaudhary, Advocate for petitioner
(through V.C.).

Ms. Simran Gorla, AAG, Punjab.

RAJESH BHARDWAJ.J (Oral)

1. Present third petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.65, dated 03.07.2019, under Section 15 of NDPS Act (however charges were framed under Section 15-C of NDPS Act), registered at Police Station Ajitwal, District Moga.

2. Succinctly, the facts of the present case are that Police party while on patrolling on 03.07.2019 received a secret information to the effect that Harjinder Singh petitioner and others were indulging in selling of poppy husk. It was informed that persons as named in the secret information were to come from Moga along with the contraband. If the raid is conducted, they could be arrested along with contraband. On finding the information reliable, a raiding team was constituted and raid was conducted at the place, as disclosed by the informer. A Mahindra Pickup was seen coming. Four persons were found sitting in Mahindra Pickup while the

applicant/accused ran away. They disclosed their names as Jagwinder Singh @ Rinku, Balvir Singh, Boota Singh and Sohan Singh. They were suspected to be carrying some contraband and thus their search was conducted. On being searched, 07 bags each weighing 10 kg. of poppy husk were recovered from vehicle. Thus, the FIR was registered and the four accused were arrested on the spot. On registration of FIR, the investigation commenced. During investigation the petitioner was arrested on 23.06.2024. The petitioner approached the learned Special Court at Moga for grant of bail. However, on hearing, the same was declined by the learned Special Court at Moga on 25.07.2024. The petitioner approached this Court twice by filing petitions i.e. CRM-M-49287 of 2024 and CRM-M-2137 of 2025 for grant of regular bail. However, the same were dismissed as withdrawn vide orders dated 15.10.2024 and 03.04.2025 respectively. Hence aggrieved, the present third petition has been filed.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that as is evident, through his name was mentioned in the secret information, however, he was neither present at the spot nor any recovery was effected from him. He also submits that there is violation of Sections 42 and 50 of the NDPS Act. He submits that during interrogation, he was arrested on 23.06.2024. He further submits that out of 08 accused, 06 are already on bail. He submits that the alleged recovery in the present case is 70 kg. of poppy husk. It is also submitted that petitioner has not been involved in any other case and thus deserves to be granted bail.

4. Learned State Counsel has vehemently opposed the submissions made by learned counsel for the petitioner. He submits that

during the investigation complicity of the petitioner surfaced and thus he was arrayed as an accused in the present case. He submits that in all, there are eight accused and six are on bail and the remaining two including the petitioner are behind bars. He submits on instructions, that 5 prosecution witnesses are yet to be examined in the present case. He has produced on record the custody certificate of the petitioner.

5. After hearing learned counsel for the parties, it is deciphered that this is third petition filed by the petitioner, though the earlier two petitions were allowed to be dismissed as withdrawn on 15.10.2024 and 03.04.2025 respectively. Further, in the facts and circumstances of the case, the recovery in the present case is 70 kg. of poppy husk, which is commercial in nature and thus, attracts provisions of Section 37 of NDPS Act. Neither the petitioner was arrested from the spot nor any recovery was made from him. The petitioner is behind bars since 23.06.2024. However, it is submitted that 05 witnesses remained to be examined. The custody certificate would show that the petitioner has suffered incarceration for the last 01 year, 02 months and 09 days as on 02.09.2025.

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 above said 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 wreaked 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 commencing 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

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.

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

03.09.2025

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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No