

CRM-M-41249-2024 (O&M)

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

2025.PHHC.070117



**CRM-M-41249-2024 (O&M)
DATE OF DECISION : 23.05.2025**

GURLAL SINGH

... PETITIONER

V/S

NARCOTICS CONTROL BUREAU, AMRITSAR

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Veneet Sharma, Advocate for the petitioner.

Mr. Sourabh Goel, Special Public Prosecutor, NCB with
Ms. Samridhi Jain and Ms. Anju Bansal, Advocates.

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RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for grant of regular bail in case NCB Crime case No.08 dated 27.03.2023 under Sections 8, 21, 23 and 25 of the NDPS Act, 1985 registered at NCB Amritsar, District Amritsar.

2. Succinctly, facts of the case are that on 27.03.2023 at about 08:02 hours, the NCB received a secret information from 183 Bn BSF, Ajnala to the effect that BOP had recovered 06 packets of suspected narcotics, one Realme mobile phone & a black colour Hero Honda bike in AOR of BOP Fatehpur and BSF wanted to hand over the same to NCB, Amritsar. On receiving the secret information, a team was constituted which reached the place as disclosed and on reaching there, the articles which included 06 packets of suspected narcotics along with motor-cycle,

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mobile phone & Jio sim were taken into possession. On receiving the custody of the items, the complaint regarding the same was registered. On registration of the complainant, the investigation commenced. During the investigation, complicity of Gurlal Singh-petitioner and one Gurjeet Singh surfaced and thus, both were nominated as accused. It was found that the petitioner had already left the country for Dubai and his look-out notice was issued. Thereafter, he returned to India in July and thus, was arrested on 09.07.2023. The petitioner approached the trial Court praying for grant of bail. However, the same was declined by the learned Special Judge, Amritsar vide order dated 20.02.2024. Aggrieved, the petitioner has approached this Court praying for grant of 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 and frivolously implicated in the present case. He submits that the complaint has been lodged by the NCB, on the basis of the secret information. However, the petitioner is neither named in the FIR nor any recovery has been effected from him. He submits that the secret information was to the effect that the BSF had recovered 06 packets of narcotics along with motor-cycle and a mobile phone. He submits that on the basis of the statement of one Komalpreet Kaur, the petitioner was alleged to have given one sim card purchased by her and thereafter, the statement of co-accused Gurjeet Singh was also recorded. He submits that it is apparent that the petitioner was arraigned as an accused on the basis of the disclosure statement of the co-accused which is not even an admissible evidence. He submits that the petitioner had left the country in a bonafide manner as there was no case against him and he duly returned to India.

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Thereafter, he was arrested on 09.07.2023. He submits that the bare perusal of the case of the prosecution shows that the main accused in the present case is the co-accused Gurjeet Singh, however, he is already on anticipatory bail, whereas the petitioner, who has been arraigned as an accused on his disclosure statement, is behind bars from last more than two years. He submits that the petitioner has no criminal antecedents and he has been implicated in the present case only on the basis of presumptions and assumptions. He thus, submits that there is no material progress in the trial and in the facts and circumstances of the case, petitioner deserves the concession of bail.

4. Per contra, learned counsel for respondent-NCB has opposed the submissions made by counsel for the petitioner. He has submitted that the complicity of the petitioner was duly established during the investigation. He submits that the statement of Komalpreet Kaur was recorded on 29.03.2023 wherein it was found that Komalpreet Kaur has purchased one sim card which was given to the petitioner and was used by him in his mobile phone, which was purchased from Rajneesh. He submits that notice was issued to the petitioner on 30.03.2023. However, instead of joining the investigation, he fled from the country. He submits that Gurjeet Singh is the co-accused in the present case. In connivance with him, the petitioner had committed the offence and recovery of 5.820 Kg of heroin has been recovered. He submits that the contraband recovered is commercial in nature and thus, the provisions of Section 37 of NDPS Act are attracted. On instructions, he submits that out of 19, only 02 prosecution witnesses have been examined. He has placed on record the custody certificate of the petitioner.

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5. After hearing counsel for the parties and perusing the record, it is inferred that the complaint in the present case has been recorded by the NCB on the basis of the secret information received wherein the BSF had recovered 06 packets of contraband, which on weighing were found to be 5.820 Kgs of heroin. The contraband was confirmed to be heroin even in the FSL report. It is not disputed that co-accused Gurjeet Singh has already been granted anticipatory bail in the present case. The name of the petitioner was surfaced during investigation on the statement of one Komalpreet Kaur and disclosure statement of co-accused Gurjeet Singh. The custody certificate produced would show that the petitioner has suffered incarceration of 1 year, 9 months and 7 days on 23.04.2025. It is further revealed that the petitioner is not involved in any other criminal case. Out of 19, only 02 prosecution witnesses stand examined.

6. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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

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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 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 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 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

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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.

23.05.2025
Janki

(RAJESH BHARDWAJ)
JUDGE

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