



224

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

**CRM-M No.39366 of 2025
Date of Decision: 28.11.2025**

Surjit Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Yajur Sharma, 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.20, dated 01.04.2025, under Section 21, 25, 27(a), 29 of NDPS Act, 1985, registered at Police Station Bhindi Saidon, District Amritsar Rural.

2. Succinctly the facts of the case are that the police party, on 01.04.2025, had laid the barricading and were checking the vehicles. During this period, they saw 02 young men approaching the village of Bhindi Saidon coming on the motorcycle. On seeing the police, they got perplexed and after stopping the motorcycle, threw 02 plastic envelopes taking out from the respective pockets of their trousers. On suspicion, the police party intercepted them. However, on asking, driver of the motorcycle, disclosed



his name to be Rakesh Singh @ Love, whereas the person riding pillion, disclosed his name to be Surjit Singh (petitioner). They were suspected to be carrying some contraband in the plastic envelopes having been thrown by them and thus, the search of the same was conducted. On conducting the search of plastic envelope being thrown by Rakesh Singh @ Love, 155 grams of heroin was recovered, whereas on conducting the search of the envelope being thrown by Surjit Singh (petitioner), 106 grams of heroin was recovered and thus, in total weighing 261 grams of heroin was recovered from both the envelopes. They failed to produce any licence regarding the conscious possession of the same, thus the FIR was registered and both were arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On receipt of the FSL, the challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Amritsar praying for the grant of bail, however after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Amritsar declined the bail application filed by the petitioner vide order dated 09.05.2025. 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 submitted that the petitioner has been falsely implicated in the present case. He has submitted that the alleged recovery was effected from the public place, however no independent witness has been joined. He has submitted that there is a blatant violation of mandatory provisions of Section 50 of NDPS



Act in conducting the search. He has submitted that even otherwise the recovery effected from the envelope allegedly thrown by the petitioner is 106 grams of heroin, which is a non commercial quantity and thus, the provisions of Section 37 of NDPS Act are not attracted. To buttress his arguments, learned counsel for the petitioner has submitted that the petitioner has no criminal antecedents as he has never been involved in any other case and thus, his false implication is writ large. He has submitted that the petitioner is behind bars since 01.04.2025 but till date, the investigating agencies have not been able to complete the investigation and thus, his right of speedy trial is miserably defeated. He has submitted that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Learned counsel for the State has vehemently opposed the submissions made by learned counsel for the petitioner. She has submitted that on due compliance of statutory provisions of NDPS Act, the contraband weighing 106 grams of heroin was recovered from the envelop having been thrown by the petitioner, whereas from the co-accused, 155 grams of heroin was recovered and thus, the total recovery effected in the present case is 261 grams of heroin, which is a commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. She, on instructions, has submitted that the case is under investigation. She has produced custody certificate of the petitioner today in the Court, which is taken on record.

5. Heard.

6. On hearing learned counsel for the parties and perusing the



record, it is deciphered that the petitioner and the co-accused were riding on the same motorcycle and was arrested on spot on 01.04.2025. However, from the envelope having been thrown by the petitioner, 106 grams of heroin was recovered. The total quantity recovered though in the present case is 261 grams of heroin. Whether the quantity recovered in the present case is commercial or non commercial would be subject to the outcome of the trial. However as submitted before this Court, the envelope having been thrown by the petitioner weighed 106 grams of heroin. Custody certificate produced would show that the petitioner has suffered incarceration of 07 months and 22 days as on 27.11.2025. It further reflects that the petitioner is not involved in any other case. As submitted before this Court by learned State counsel, the case is under investigation.

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 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.

20. xxxxx

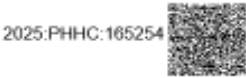
21.it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.

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.”*

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.



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

(RAJESH BHARDWAJ)
JUDGE

28.11.2025

<i>rittu</i>	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No