

2025:PHHC:096199



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

CRM-M-39571-2025
Date of Decision: 30.07.2025

Ajay Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rishu Mahajan, Advocate
for the petitioner(s).

Mr. Raj Karan Singh, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present 2nd petition praying for granting regular bail in case FIR No.338 dated 01.11.2023 under Sections 21(c)/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station STF, SAS Nagar, Mohali, District STF Wing.

2. Succinctly, facts of the case are that on 01.11.2023, the police received a secret information to the effect that Luvpreet Singh @ Love, Zabbar Singh and Hasratpal Singh @ Gopi are involved in smuggling of heroin. It was informed that they were travelling in their black colour Cruise car carrying huge quantity of heroin and were waiting near S.K. Dhaba for their customer and if a raid is conducted, they can be apprehended with a huge quantity of heroin. On finding the secret information reliable, a raiding party was constituted and it proceeded to the place informed. As informed, a car was found parked in which two persons were sitting and the third was standing outside the car. They were apprehended by the police party. On asking, they disclosed their names as

Luvpreet Singh @ Love, Zabar Singh and Hasratpal Singh @ Gopi. They were suspected to be carrying on some contraband and thus, search of the car was conducted. On conducting the search of the car two bags, one each 800 grams and 500 grams of heroin was recovered and thus, a total heroin weighing 1 Kg. 300 grams was recovered from the car. They failed to produce any licence regarding possession of the same. Hence, they were arrested on the spot and on registration of the FIR, the investigation commenced. During investigation, they made disclosure statement on 02.11.2023 wherein complicity of Ajay Singh (petitioner) was found and thus, the petitioner was also arrayed as an accused and arrested on 02.11.2023. Further, on the disclosure statement of the petitioner another 500 grams heroin was recovered from his house and from the disclosure statement of the other co-accused 350 grams was recovered. Thus, in all 2 kg. 150 grams of heroin was recovered. The petitioner approached the Court of learned Additional Sessions Judge, Amritsar praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 26.02.2024. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present petition.

3. It has been contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously roped in the present case on the basis of the disclosure statement. He submits that admittedly the secret information was regarding the co-accused namely Luvpreet Singh @ Love, Zabar Singh and Hasratpal Singh @ Gopi and the recovery of 1 Kg. 300 grams heroin was effected from their car. He submits that on the basis of the disclosure statement of the co-accused, the petitioner was falsely implicated in the present case and another recovery of 500 grams heroin was planted upon the petitioner. He submits that the disclosure statement in itself is not admissible evidence. He submits that

petitioner has been projected as supplier of the contraband in the present case, however, he has no criminal antecedents as he has never been involved in any other case except the present one. He submits that the petitioner has completed incarceration of 01 year, 08 months and 23 days and the material witnesses have already been examined. He, thus, submits that in view of the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that total recovery of 2 Kg. and 150 grams of heroin was effected in the present case, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. He further submits that out of total 23 prosecution witnesses, 13 witnesses have been examined. He has placed on record custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the present FIR has been lodged on the basis of the disclosure statement of co-accused. Further, on the basis of the disclosure statement of the petitioner another recovery of 500 grams heroin alleged to have been recovered. Out of total 23 prosecution witnesses, 13 witnesses have been examined. The custody certificate would reflect that the petitioner has suffered incarceration of 01 year, 08 months and 23 days as on 29.07.2025. It further reflects that the petitioner has no criminal antecedents.

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 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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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 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.’

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. Thus, keeping in view the arguments raised by both the sides, 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.

30.07.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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