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

**CRM-M No.40481 of 2025
Date of Decision: 04.08.2025**

Sukhdev Singh @ Sukha**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ***********

Present :- Mr. Ashok Kumar Sama, 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.189, dated 26.09.2023, under Section 21(c) of NDPS Act, 1985, registered at Police Station Guru Har Sahai, District Ferozepur, Punjab.

2. Succinctly the facts of the case are that on 26.09.2023, the police party while on patrolling received a secret information to the effect that Gurcharan Singh @ Channa, Sukhdev Singh @ Sukha (petitioner) and Sunil Singh @ Lovely, were involved in smuggling of heroin. It was informed that they were coming on their motorcycle along with the contraband and in case of *barricading*, they could be arrested along with contraband. On receiving the secret information, barricading was laid by



the police party at the place disclosed. All 03 persons were seen coming on their motorcycle and they were stopped by the police party. On asking, they disclosed their names as Gurcharan Singh @ Channa, Sukhdev Singh @ Sukha and Sunil Singh @ Lovely. Gurcharan Singh @ Channa was carrying a bag. They were suspected to be carrying some contraband in the same and thus, the offer was given to be searched. On conducting the search, 1 Kg 873 grams of heroin was recovered in the bag. They failed to produce any licence regarding the conscious possession of the same and thus, all were arrested on the spot and FIR was registered. On registration of the FIR, the investigation commenced. Samples taken were sent to the FSL. On completion of the investigation, challan was presented and the learned trial Court on framing the charges, proceeded with the trial. The petitioner approached the Court of learned Judge, Special Court, Ferozepur praying for grant of bail, however, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Ferozepur declined the petition filed by the petitioner vide order dated 05.04.2024. Aggrieved by the same, the petitioner earlier approached this Court by way of filing CRM-M-24952-2024 praying for the grant of bail, however the same was declined vide order dated 20.08.2024. Hence being aggrieved, the petitioner is again before this Court praying for the grant of bail by way of filing the present second petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been implicated in the present case on the basis of a secret information, however, there is violation of mandatory provisions of Section 42 of the NDPS Act. He has submitted that there is a violation of provisions of Section 50 of NDPS Act as well. He has submitted that the



Investigating Agencies have not joined any independent witness whereas the alleged recovery is from a public place. He has submitted that the petitioner has no criminal antecedents as he has never been involved in any other case. He has submitted that the petitioner is behind bars since the date of his arrest, however, the prosecution has not examined any witness till date only in order to prolong the incarceration of the petitioner. He has submitted that co-accused of the petitioner, namely, Gurcharan Singh @ Channa and Sunil Singh @ Lovely have already been granted the concession of bail by this Court vide order dated 22.07.2025 passed in CRM-M No.17180 of 2025 and CRM-M No.23108 of 2025. He has submitted 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. She has submitted that the recovery effected in the present case is on due compliance of Sections 42 and 50 of the NDPS Act. She has submitted that 1 Kg 873 kg of heroin was recovered, which is a commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted in this case. She, on instructions, has submitted that out of total 11 prosecution witnesses, 04 witnesses have given up, however, no witness has been examined out of 07 remaining witnesses. She has endorsed the fact that co-accused, namely, Gurcharan Singh @ Channa and Sunil Singh @ Lovely have already been granted bail by this Court vide order dated 22.07.2025. She has placed on record custody certificate of the petitioner today in the Court and the same is taken on record.

5. Heard.



6 On hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since the date of his arrest, i.e. 26.09.2023. The recovery effected from 03 of the accused is 1 Kg 873 gms of heroin, which is a commercial quantity. As submitted, the petitioner has no criminal antecedents and no witness has been examined by the prosecution till date. Co-accused of the petitioner have already been granted bail by this Court vide order dated 22.07.2025. Custody certificate produced would show that the petitioner has completed incarceration of 01 year, 10 months and 08 days as on 03.08.2025.

7. 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 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. 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.

04.08.2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(RAJESH BHARDWAJ)
JUDGE