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

CRM-M No.40726 of 2025 (O&M)

Date of decision : 05.08.2025

Pardeep

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. V. P. Sangwan, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

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.117, dated 14.04.2025, under Section 19 of NDPS Act (inadvertently Section 19 of NDPS Act has been recorded in the FIR but the same is under Section 18 of NDPS Act, 1985), registered at Police Station Tosham, District Bhiwani.

2. Succinctly the facts of the case are that the police party while on patrolling, on 14.04.2025, received a secret information to the effect that Monu @ Mota, resident of Devsar, is indulged in selling opium. It was informed that he was coming from Dhani Mahu towards Sangwan on a motorcycle along with his associate carrying opium and in case of *naaka*, they could be apprehended along with the contraband. On



receiving the secret information, the raiding party was constituted and the police laid the *naaka* near New Sangwan Pump House on Dhani Rivasa Road. The motorcycle, as disclosed, was seen coming. On suspicion, the same was stopped. On asking, the person driving the motorcycle, disclosed his name to be Pradeep Kumar, i.e. the petitioner, and the person riding pillion, disclosed his name to be Narendra @ Monu Mota. They were suspected to be carrying some contraband and thus their search was conducted. On conducting the search of pocket of the pant of pillion rider, 172 grams of Opium was recovered whereas from the petitioner, no contraband was recovered. 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 petitioner approached the Court of learned Judge, Special Court, Bhiwani, praying for the grant of bail, however after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Bhiwani declined the petition filed by the petitioner vide order dated 09.06.2025. Hence being aggrieved, the petitioner is again before this Court by way of filing the present petition praying for the grant of regular bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He has submitted that the FIR was registered on the basis of secret information, however there is a violation of mandatory provisions of Section 42 of NDPS Act. He has submitted that there is a violation of provisions of Section 50 NDPS Act as well in carrying out the search. To buttress his arguments, learned counsel for the petitioner has submitted that the



alleged search has been conducted in a public place, however no independent witness has been joined. He has submitted that the petitioner is behind bars since the date of his arrest, i.e. 14.04.2025. He has submitted that even otherwise, the alleged recovery effected is from the co-accused, namely, Narender @ Monu Mota, which is a non commercial quantity and thus, the provisions of Section 37 of NDPS Act are not attracted. He has submitted that the challan is presented and charges are framed. He has further submitted that the petitioner has no criminal antecedents as he has never been involved in any other case. He has submitted that in the facts and circumstances, the petitioner deserves to be granted bail.

4. *Per contra*, learned counsel for the State however has opposed the submissions made by counsel for the petitioner. He has submitted that on the due compliance of provisions of NDPS Act, the *naaka* was laid and both the accused in the present case were arrested on the spot. He has submitted that on the search of co-accused, namely, Narender @ Monu Mota, 172 grams of Opium was recovered. He has further submitted that the motorcycle belongs to the petitioner. He has submitted that the charges are framed, however out of 15 prosecution witnesses, no witness has been examined till date. He has placed on record custody certificate of the petitioner dated 04.08.2025 today in the Court and the same is taken on record.

5. Heard.

6. After hearing learned counsel for the parties and perusing the record, it is deciphered that recovery in the present case has been effected from the personal search of co-accused, Narender @ Monu Mota, who



was riding as a pillion. The petitioner is behind bars since the date of his arrest, i.e. 14.04.2025. The contraband recovered from the co-accused falls under the category of non-commercial quantity and thus provisions of Section 37 NDPS Act are not attracted. Out of 15 prosecution witnesses, no witness has been examined till date. Custody certificate produced would show that the petitioner has completed incarceration of 03 months and 21 days as on 04.08.2025. It further reflects that the petitioner has no criminal antecedents as he has never been involved in any other case.

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.

8. 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. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on her 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.

05.08.2025
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(RAJESH BHARDWAJ)
JUDGE

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