



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

CRM-M-42089-2025

Date of Decision: 08.08.2025

Lovely Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Gursimran S. Bawa Advocate, for the petitioner.

Mr.Raj Karan Singh, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Present fourth petition has been filed for grant of regular bail to the petitioner in case FIR No.24 dated 07.02.2023, under Sections 20, 25, 27(a) of NDPS Act, registered at Police Station Dinanagar, District Gurdaspur.

2. Succinctly, facts of the case are that on 07.02.2023, the police party while on patrolling, received a secret information to the effect that two young persons are involved in smuggling of narcotics and they would be coming in a car bearing registration No.PB-02DX-2290 from the side of Himachal Pradesh. On receiving the secret information, barricade was laid by the police and vehicles were checked. The vehicle as disclosed in the secret information was seen and the same was stopped. On asking, driver of the car disclosed his name as Lovely Singh (petitioner), whereas, the person sitting on the conductor seat disclosed his name as Pankaj Sharma. They were suspected to be carrying some contraband and thus, they were given offer to be searched. On conducting search, a plastic bag containing 3.300



Kgs of charas and Rs.75,000 as drug money, were recovered. They failed to produce any licence regarding the possession of the same. Thus, the FIR the registered and both the accused were arrested on the spot. The investigation commenced and the samples taken were sent to the FSL. The petitioner approached the Court of learned Judge, Special Court, Gurdaspur 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 17.03.2023. Thereafter, the petitioner approached this Court thrice for the grant of regular bail by way of filing CRM-M-18942-2023, CRM-M-54943-2023 and CRM-M-42589-2024, but, the same were dismissed as withdrawn vide different orders. Hence, the petitioner has again approached this Court praying for grant of regular bail by way of filing the present fourth petition.

3. Learned counsel for the petitioner, at the outset, prays for the grant of bail to the petitioner on the basis of parity with that of the co-accused, namely, Pankaj Sharma. He has drawn the attention of this Court to the order dated 23.07.2025 passed in **CRM-M-21380-2025**, whereby, co-accused Pankaj Sharma has been granted regular bail by this Court. He submits that the petitioner is in custody since 07.02.2023. He submits that though the petitioner is involved in one more case, however, he is on bail in that case. He submits that on the basis of the parity, the petitioner deserves to be granted bail as the case of the petitioner is similar to that of the said co-accused, who has already been granted bail.

4. Learned State counsel has endorsed the factum of grant of bail



to the co-accused of the petitioner as stated above and has not denied that the petitioner is at par with the co-accused, namely, Pankaj Sharma. However, he submits that the recovery effected in the present case falls under the commercial quantity, thus, provisions of Section 37 of the NDPS Act are attracted. On instructions, he submits that out of total 15 prosecution witnesses, 02 witnesses have been examined and 01 witness has been given up. He has placed on record the custody certificate of the petitioner.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since 07.02.2023. Co-accused, namely, Pankaj Sharma is on bail and the case of the petitioner as stated is at par with him. As submitted before this Court, out of 15 prosecution witnesses, 02 witnesses have been examined and 01 witness has been given up. The custody certificate reflects that the petitioner has suffered incarceration of 02 years, 05 months & 28 days as on 07.08.2025. It further reflects that the petitioner is involved in one more case, however, he is on bail in that case.

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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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.*

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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. This Court would refrain itself from commenting anything on the merits of the case. 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 on the basis of parity. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety

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bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

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

08.08.2025
sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No