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

**CRM-M No.42244 of 2025
Date of decision : 08.08.2025**

Rajinder Kumar @ Rinku**.....Petitioner**

versus

State of Punjab**..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Brijeshwar Vashist, Advocate
for the petitioner.

Mr. Raj Karan Singh, A.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.211, dated 22.11.2023, under Section 15 of NDPS Act, 1985, registered at Police Station Samana, District Patiala.

2. Succinctly the facts of the case are that the police party while on patrolling on 22.11.2023, received a secret information to the effect that Rajinder Kumar @ Rinku (petitioner) and Fakir Chand @ Soni were having truck bearing registration No.PB-11-CY-1830 and they were habitual of selling Poppy Husk on higher price after bringing the same from MP side. It was informed that they were coming with the heavy quantity of Poppy Husk from MP side in their truck and in case of barricading, they could be arrested along with the contraband. On receiving the secret information reliable, the raiding team was constituted and barricading was laid at the disclosed place. The truck as disclosed in the



secret information was seen coming and the same was stopped. Driver of the truck, on asking, disclosed his name as Rajinder Kumar @ Rinku (petitioner) whereas the person sitting on the side, disclosed his name as Fakir Chand @ Soni. They were suspected to be carrying some contraband in the truck and thus they were given the offer for search. On conducting the search, 15 bags of black colour were recovered from the truck, each weighing 30 Kg. On examining the same, the bags were found to be containing Poppy Husk and thus a total of 450 Kg of Poppy Husk was recovered from all 30 bags. Both the persons failed to produce any licence regarding the conscious possession of the same and 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 completion of investigation, the challan was presented. The petitioner approached the Court of learned Judge, Special Court, Patiala praying for the grant of bail. However, after hearing both the sides finding no merit in the same, the learned Judge, Special Court, Patiala declined the petition filed by the petitioner vide order dated 29.10.2024. 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, at the outset, prays for the grant of bail on the basis of parity with that of the co-accused. He has drawn the attention of this Court to the order passed by this Court in **CRM-M-11558-2025** dated 21.05.2025 whereby co-accused of the petitioner, namely, Fakir Chand @ Soni, has been granted the concession of bail. He has submitted that case of the petitioner is at par with the co-



accused, who has been granted bail by this Court. He submits that on the basis of the parity, petitioner deserves to be granted bail as case of the petitioner is similar to that of the co-accused, who has already been granted bail.

4. *Per contra*, learned counsel for the State however has opposed the submissions made by counsel for the petitioner. He, on instructions, has submitted that the petitioner was specifically named in the secret information. He has submitted that on conducting the search of the truck, 450 Kg of Poppy Husk has been recovered, which is commercial in nature and thus, the provisions of Section 37 NDPS Act are attracted. He, on instructions, has submitted that there are total 24 prosecution witnesses and 15 remain to be examined. He has produced custody certificate of the petitioner today in the Court and the same is taken on record. He submits that the petitioner is involved in one more case under the Prisons Act. He endorsed the fact that the case of petitioner is at par with co-accused, namely, Fakir Chand @ Soni, who has already been granted bail by this Court.

5. Heard.

6. After hearing learned counsel for the parties and perusing the record, it is inferred that FIR in the present case has been registered on the basis of secret information. The petitioner was arrested on 22.11.2023 and since then, he is behind bars. Custody certificate shows that the petitioner has suffered incarceration of 01 year, 08 months and 12 days as on 07.08.2025. Admittedly, co-accused of the petitioner, namely, Fakir Chand @ Soni, has already been granted bail by the Court vide order



dated 21.05.2025 passed in CRM-M-11558-2025.

7. After perusal of the order passed by the Hon'ble Supreme Court in **Mohd Muslim @ Hussain vs. State (NCT of Delhi), 2023 Live Law (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.'

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 on the basis of parity with the co-accused as stated above. 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.

10. In case the bail bonds are not furnished by the petitioner during the period of 07 days from today, then his further custody period after one week will not be counted in the present case.

08.08.2025

ps-I

Whether speaking/reasoned
Whether reportable

:
:

Yes/No
Yes/No

(RAJESH BHARDWAJ)
JUDGE