



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

CRM-M-47589-2024

Date of decision : 16.01.2025

Manjit Singh @ Manga

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sandeep Verma, Advocate
for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.71 dated 11.06.2023, under Section 21(c) of NDPS Act, registered at Police Station Sadar Kotkapura, District Faridkot.
2. Status report by way of affidavit of Mr. Jatinder Singh, PPS, Deputy Superintendent of Police, Sub Division Kotkapura, District Faridkot, filed by learned State counsel is taken on record.
3. Succinctly, facts of the case are that the police party while on patrolling on 11.06.2023 spotted a man and a woman sitting under the shadow of the tree. Having doubt, they stopped their vehicle. They found that both were holding polythene bag. On asking, man disclosed his name to be Manjit Singh @ Manga and woman disclosed her name as Seema Rani wife of Manjit Singh @ Manga. They were suspected to be carrying some contraband in the polythene bag held by them. Thus, they were given offer under Section 50 of the NDPS Act and in the presence of the Deputy Superintendent of Police, the same was searched. On checking, 265 grams of heroin was recovered. They failed to produce any license regarding the possession of the same and thus, the FIR was registered and they were



arrested on the spot. On registration of the FIR, investigation commenced. The samples taken were sent to the FSL. On completion of the investigation, challan was presented and on framing of the charges, the trial commenced. Petitioner approached the Court of learned Judge, Special Court, Faridkot praying for grant of bail. However, after hearing counsel for both the sides, the same was declined vide order dated 12.08.2024 and hence, petitioner is before this Court by way of filing the present petition.

4. It has been contended by counsel for the petitioner that the petitioner and his wife have been falsely implicated in the present case. He submits that the recovery has been effected from the public place however, there is no independent witness joined by the police party. He also submits that there is a violation of Section 50 of the NDPS Act while carrying out the search. He submits that though petitioner is involved in other cases also however, he is on bail in those cases. He further submits that the alleged recovery effected is 265 grams of heroin whereas, the commercial quantity is about 250 grams of heroin and thus, the recovery made is also marginally above the commercial quantity. To buttress his arguments, he has submitted that wife of the petitioner who is co-accused has already been enlarged on bail vide order dated 18.07.2024. He submits that petitioner is behind bars since the date of his arrest however, there is no progress in the trial. He thus, submits that petitioner deserves to be granted bail.

5. Learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that on due compliance of statutory provisions, 265 grams of heroin was recovered from the petitioner which is a commercial quantity. He submits that petitioner is a habitual offender who is also involved in other cases of similar nature. It is submitted that out of 20 prosecution witnesses, only 02 witnesses have been examined so far.



6. After hearing counsel for the parties and perusing the record, it is deciphered that, petitioner along with his wife was arrested on 11.06.2023. Recovery of 265 grams of heroin was effected from the bags being carried by them. Though as per the custody certificate, it is evident that petitioner is involved in other cases as well however, he is on bail in those cases. The wife of the petitioner has already been granted bail by this Court vide order dated 18.07.2024. Out of 20 prosecution witnesses, only 02 witnesses have been examined till date.

7. 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 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.

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.

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 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. 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 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.

16.01.2025
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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