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

**CRM-M-49679-2024
DECIDED ON: 03.07.2025**

SARJEET SHARMA**.....PETITIONER**

VERSUS

STATE OF HARYANA**.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in case FIR No.477 dated 18.08.2022 under Section 20-C of the NDPS Act registered at Police Station Pinjore, District Panchkula.

2. Succinctly, facts of the case are that on 18.08.2022, the police received a secret information to the effect that Madan son of Raghbir Singh and Sarjeet Sharma son of Dulla Ram are involved in selling Sulfa (Charas) in Haryana. It was informed that they would come in vehicle bearing registration No.HP-34-E-7177 and if the barricading is laid then the accused persons can be apprehended with the contraband. On receiving the secret information, notice under Section 42 of the NDPS Act was prepared and the raiding party was constituted and barricading was laid. The car as disclosed in the secret information was seen coming, which was stopped and on the asking, the driver of the car disclosed his name as Sarjeet Sharma and other person sitting in the



car disclosed his name as Madan. They were suspected to be carrying contraband and thus, their personal search was conducted, however, no drug was recovered and a carry bag was found lying in the car and on the search of the same, 1 kg 550 grams of charas was recovered . The inmates of the vehicle failed to produce any licence regarding possession of the same. Hence, they were arrested on the spot and on registration of the FIR, the investigation commenced and recovered substance was sent to the FSL lab and the challan was presented. On framing of charges, the trial commenced. The petitioner approached the Court of learned Addl. Sessions Judge, Panchkula 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 08.08.2024. Thereafter, the petitioner has earlier approached this Court by way of filing two petitions i.e. CRM-M-5644-2023 and CRM-M-56899-2023 and the same were not accepted vide orders dated 08.02.2023 & 11.01.2024, respectively. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present petition.

3. Learned counsel for the petitioner vehemently submits that evidently the case of the prosecution is based on the secret information, however, there is violation of Section 42 of the NDPS Act. It is submitted that there is also violation of Section 50 of the NDPS Act. He submits that there are two accused in the present case including the petitioner, however, the similarly situated co-accused, namely, Madan has already been released on bail in this case. He submits that the mandatory provisions of NDPS Act has not been complied with and thus, false implication of the petitioner is writ large. It is submitted that the petitioner has completed incarceration of more than 02 years, but there is no progress in the trial. He, thus, submits that in view of the facts



and circumstances of the case, the petitioner deserves to be granted bail. He submits that the petitioner has no criminal antecedents, as he has never been involved in any other case.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the recovery has been effected on due compliance of statutory provisions of NDPS Act and the recovery effected in the present case i.e. 01 kg 550 grams of charas falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the present FIR has been lodged on the basis of the secret information. The co-accused in the present case, namely, Madan is already on bail and as per the custody certificate, the petitioner has suffered incarceration of 02 years & 03 months as on 02.07.2025. It further reflects that the petitioner has no criminal antecedents.

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. 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. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Thus, 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.

8. 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.



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

03.07.2025

Poonam Negi

(RAJESH BHARDWAJ)
JUDGE

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