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

CRM-M-42438-2025

Date of Decision: 05.09.2025

Kamal Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Puneet Bali, Advocate, for the petitioner.

Ms. Simran Gorla, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of filing the present petition praying for grant of regular bail in case FIR No.71 dated 26.06.2024 under Sections 18, 27, 27-A, 29, 61, 85 of NDPS, 1985, registered at Police Station Khuian Sarwar, District Fazilka.

2. Succinctly, facts of the case are that while patrolling the police party received a secret information on 26.06.2024 to the effect that Sukhyad Singh @ Yad, Tarsem Singh and Jugraj Singh are involved in smuggling the opium, which they would be bringing from Jharkhand in Swift Car bearing registration No.PB-05-AC-5015. It was informed that in case of raid, they could be arrested alongwith the contraband. On receiving the information, raiding team was constituted and the vehicle as disclosed in the secret information was stopped. All the three persons disclosed in the secret information, were arrested alongwith 66 kgs of opium and Rs.40,000/- as drug money. On the registration of the FIR, the investigation commenced. During the investigation, co-accused Sukhyad Singh @ Yad and Jugraj Singh made disclosure statements about the complicity of the petitioner and thus, he was also arrayed as an accused and thereafter, arrested on



05.07.2024. The petitioner approached the Court of learned Judge, Special Court, Fazilka praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merits in the same, dismissed the bail application filed by the petitioner vide order dated 12.11.2024. Aggrieved by the same, the petitioner earlier approached this Court by way of filing CRM-M-95-2025, which was allowed to be dismissed as not pressed vide order dated 03.03.2025, CRM-M-28481-2025, which was dismissed on the ground of no change in circumstances, vide order dated 28.05.2025. Hence, the petitioner has again approached this Court praying for grant of regular bail by way of filing the present third petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He has submitted that neither the petitioner was named in the FIR, nor any recovery has been effected from him. However, he has been implicated in this case only on the basis of disclosure statement of co-accused Sukhyad Singh @ Yad and Jugraj Singh and thus, vide DDR No.33 dated 30.06.2024 the petitioner was arrayed as an accused. He submits that recovery of alleged contraband is weighing 66 kgs of opium with Rs.40,000/- as drug money, had been effected from the co-accused. He submits that the petitioner is a hotelier, who has been implicated in this case on the basis of CCTV footage of the hotel. He submits that the petitioner himself provided the CCTV footage of his hotel. On issuing notice by the Investigating Agency, he himself approached them. It is submitted that case of the prosecution is based on the secret information, but there is a blatant violation of mandatory provisions of the NDPS Act. The confessional statement of the co-accused



in itself is not admissible evidence. To buttress his arguments, he has submitted that the petitioner has no criminal antecedents as he has never been involved in any other case under IPC or under the NDPS Act, except the present case. He submits that investigation is complete, challan has been presented and charges have been framed, however, there is no progress in the trial as no witness has been examined till date, thus, right of the petitioner of speedy trial has been miserably defeated. He submits that the petitioner earlier approached this Court praying for grant of interim bail for a period of two weeks for attending marriage of his adopted daughter. This Court vide order dated 02.05.2025 granted him interim bail from 03.05.2025 to 11.05.2025 and the petitioner duly surrendered back within the stipulated time as directed by this Court. He, thus, submits that in the overall facts and circumstances, the petitioner deserves to be granted bail.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. She has submitted that complicity of the petitioner was surfaced during the investigation. She submits that secret information was received by the police party regarding co-accused Sukhyad Singh @ Yad, Tarsem Singh and Jugraj Singh and 66 kgs of opium alongwith Rs.40,000/- as drug money was recovered from them and the contraband recovered is a huge commercial quantity and thus, provisions of Section 37 of NDPS Act are attracted. It is on their disclosure statement, complicity of the petitioner was found in the present case. She submits that as per CCTV footage, the petitioner was seen in the hotel with the co-accused Sukhyad Singh @ Yad and Jugraj Singh and thus, involvement of the petitioner is duly proved and hence, no case for grant of



bail to the petitioner is made out. She has placed on record the custody certificate of the petitioner. On instructions, she has submitted that out of total 30 prosecution witnesses, no witness has been examined till date.

5. The Court has heard learned counsel for the parties and perused the record. Evidently, the FIR in the present case was lodged on the basis of secret information. The secret information was qua co-accused Sukhyad Singh @ Yad, Tarsem Singh and Jugraj Singh. Recovery of 66 kgs of opium and drug money of Rs.40,000/- were effected from the co-accused. The petitioner was arrayed as an accused in the present case on the basis of disclosure statement of the co-accused. Arrest of the petitioner was effected on 05.07.2024. Family of the petitioner is owner of the hotel and the petitioner has been allegedly seen in his hotel with the co-accused in CCTV footage. The custody certificate reflects that the petitioner has suffered incarceration of 01 year, 01 month & 19 days as on 04.09.2025. It further reflects that the petitioner has no criminal antecedents. Investigation is complete and charges have been framed, however, no witness has been examined till date. Needless to say that every accused has the right of speedy trial.

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. Keeping in view the arguments raised by both the



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sides and perusing the record, 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.

(RAJESH BHARDWAJ)
JUDGE

05.09.2025

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