

2025:PHHC:158978



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

239

**CRM-M-43016-2025
Decided on:17.11.2025**

Gurbax Singh @ Gurbakhas Singh**...Petitioner**

Versus

State of Punjab**...Respondent****Coram : Hon'ble Mr. Justice Rajesh Bhardwaj**

Present: Mr. Laghuinder Singh Sekhon, 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 to him in case FIR No.73 dated 20.12.2024, registered under Sections 15, 25 and 29 of the NDPS Act, 1985, at Police Station Fatehgarh Panjtoor, District Moga.

3. Succinctly, facts of the case are that the police party, while on patrolling on 20.12.2024, received a secret information to the effect that Gurmeet Singh son of Gurmej Singh was involved in selling poppy husk. It was informed that he was waiting for his customers on his White coloured Activa Scooty bearing No.PB-05-AS-0655 on the boundary of river near Bhaini Mandi and if the raid is conducted, he could be arrested along with the contraband. On receiving the secret information, raiding party reached at the disclosed place where a person along with Scooty was found present. He was having three bags with him. He was suspected to be carrying some contraband and thus, was apprehended. On asking, he disclosed his name to be Gurmit Singh son of Gurmej Singh. On search of the three bags, 54 kg poppy husk was recovered from him. He failed to produce any license regarding the

2025:PHHC:158978



possession of the same and, thus, he was arrested on the spot. The investigation commenced and the samples taken were sent to the FSL. During investigation, the complicity of the petitioner was surfaced and he was arrested on 28.05.2025. He approached the Court of learned Judge, Special Court, Moga praying for grant of bail, however, after hearing counsel for the parties, learned Judge, Special Court declined the same vide orders dated 10.07.2025. Hence, being aggrieved, the petitioner is before this Court by way of filing the present petition praying for grant of regular bail.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He further submits that the petitioner was not even named in the FIR; however, he has been nominated as an accused under Section 29 of the NDPS Act, 1985, on the basis of disclosure statement of co-accused Gurmit Singh who had alleged that he purchased the alleged contraband from the petitioner. It is submitted that the FIR in the present case has been lodged on the basis of secret information however; there is a violation of provisions of Sections 42 and 50 of the NDPS Act. It is submitted that the quantity up to 50 kg of poppy husk is non-commercial quantity, whereas the alleged recovery from co-accused Gurmit Singh is 54 kg of poppy husk. He further submits that main accused namely, Gurmit Singh, from whom the alleged recovery was effected, as well as the co-accused Gurmit Singh @ Gurmeet Singh, owner of the Scooty, have already been granted regular by this Court vide order dated 10.11.2025 passed in CRM-M-39896-2025 and CRM-M-61586-2025 and, thus, the petitioner also deserves to be granted regular bail by this Court.

5. Learned State counsel however opposes the submissions made by counsel for the petitioner. She submits that co-accused Gurmit Singh, from whom the alleged recovery of 54 kg of poppy husk was effected has specifically made a disclosure that he had purchased the alleged contraband

2025:PHHC:158978



from the petitioner. On instructions, she submits that challan has already been presented, charges have been framed, however, out of 21 prosecution witnesses, none has been examined till date. She places on record custody certificate of the petitioner which shows that the petitioner is behind the bars since the last 05 months and 17 days as on 15.11.2025.

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 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.

22. xxx xxx xxx

2025:PHHC:158978



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. After hearing counsel for the parties and perusing the record, it is deciphered that the alleged recovery of 54 Kgs. of poppy husk in the present case is from co-accused of the petitioner, namely, Gurmit Singh on whose disclosure the present petitioner has been nominated under Section 29 of the NDPS Act, 1985. Custody certificate filed by the State show that petitioner is behind the bars since the last 5 months and 17 days as on 15.11.2025. The petitioner is involved in one more case, however, he is on bail in the said case. As submitted, out of 21 prosecution witnesses, none has been examined so far and main accused, from the recovery was effected, as well as one co-accused, owner of the Scooty, have already been granted regular bail by this Court vide order dated 10.11.2025 passed in CRM-M-39896-2025 and CRM-M-61586-2025.

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 cases will take sufficiently long time. However, keeping in view the overall facts and circumstances of the

2025:PHHC:158978



present cases, 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

November 17, 2025
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(Rajesh Bhardwaj)
Judge

Whether Speaking/Reasoned: NO/YES
Whether Reportable: NO/YES