



CRM-M-45280-2025

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**240+247 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(1) CRM-M-45280-2025

Jatinder Yadav @ Ganja

..... Petitioner

Versus

State of Punjab

.....Respondent

(2) CRM-M-49383-2025

Preeti

..... Petitioner

Versus

State of Punjab and others

.....Respondents

Date of Decision: 03.11.2025

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Veneet Sharma, Advocate for the petitioner
in CRM-M-45280-2025.

Mr. Raghav Soni, Advocate, for the petitioner
in CRM-M-49383-2025.

Mr.Raj Karan Singh, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. This order will dispose of above-mentioned two petitions, as both have arisen out of a common FIR.

2. Petitioners have approached this Court by way of present petitions praying for granting them regular bail in case FIR No.21 dated 02.03.2025, under Sections 21(c), 29/61/85 of NDPS Act, 1985 and Sections 111(2), 111(3), 111(4) of BNS, 2023, registered at Police Station Sadar Amritsar.

3. Succinctly, facts of the case are that on 02.03.2025, the police party while on patrolling, saw a person coming on motorcycle, who on seeing the police got perplexed and tried to turn his motorcycle. He was also trying to throw a polythene bag taking it out from right pocket of his lower.

However, he was apprehended and on asking, he disclosed his name to be



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Sukhwinder Singh son of Dalbir Singh. He was suspected to be carrying some contraband and thus, search was conducted. On conducting search of the polythene bag, 265 grams of heroin was recovered. He failed to produce any licence regarding the possession of the same and thus, he was arrested on the spot. On the registration of the FIR, the investigation commenced. During the investigation, he made a disclosure statement about the complicity of the present petitioners, namely, Jatinder Yadav @ Ganja (petitioner in CRM-M-45280-2025) and Preeti (petitioner in CRM-M-49383-2025). Thus, the petitioners were arrayed as accused and resultantly, they were arrested on 04.03.2025/06.03.2025. The petitioners approached the Court of learned Judge Special Court, Amritsar praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail applications filed by the petitioners vide order dated 02.05.2025/13.05.2025. Petitioner Preeti earlier approached this Court by way of filing CRM-M-30251-2025, however, the same was allowed to be dismissed as withdrawn vide order dated 06.06.2025. Hence, petitioner Preeti has again approached this Court praying for grant of regular bail by way of filing the present second petition, whereas, petitioner Jatinder Yadav @ Ganja has approached this Court by way of filing the first petition.

3. It has been vehemently contended by learned counsel for the petitioners that the petitioners have been falsely implicated in the present case. It is submitted that neither the petitioners were named in the FIR, nor any recovery has been effected from them. However, they have been implicated in the present case only on the basis of disclosure statement of co-accused Sukhwinder Singh. It is submitted that even otherwise the



disclosure statement of the co-accused is not an admissible evidence. It is submitted that the alleged recovery effected from the co-accused is also in violation of the mandatory provisions of Section 50 of the NDPS Act. It is further submitted that the alleged recovery had been effected from a public place, however, no independent witness has been joined. They have submitted that though the petitioners are involved in other cases, however, they are on bail in the same. They have submitted that even otherwise the alleged recovery effected from the petitioner is 265 grams of heroin, whereas, the commercial quantity of heroin is above 250 grams and thus, the present recovery is marginally above the commercial quantity. They submit that in the facts and circumstances of the case, the petitioners deserve to be granted regular bail.

5. *Per contra*, learned State counsel has vehemently opposed the submissions made by counsel for the petitioners. He submits that complicity of the petitioners has been established during the investigation. He submits that recovery effected from the co-accused is a commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted. On instructions, he submits that the investigation is complete and challan is presented. He has placed on record the custody certificates of the petitioners.

6. On hearing counsel for the parties and perusing the record, it is deciphered that recovery of 265 grams of heroin has been effected from co-accused Sukhwinder Singh. The petitioners were arrayed as accused on his disclosure statement. The investigation already stands completed. Custody certificates of the petitioners would show that both the petitioners have suffered incarceration of 07 months and 25 days as on 01.11.2025. It further



shows that the petitioners are involved in other cases, however, they are on bail in those cases.

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 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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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.

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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. 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 sides and perusing the record, this Court is of the opinion that learned counsel for the petitioners succeed in making out a case for grant of regular bail to the petitioners.

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

03.11.2025
sharmila

(RAJESH BHARDWAJ)
JUDGE

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