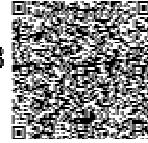


2025:PHHC:112128



[242] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45016-2025
Date of Decision : 25.08.2025

Deepak Bhatia alias Deep Kumar ...Petitioner
versus

State of PunjabRespondent

Coram : **HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Himanshu Sharma, Advocate
for the petitioner.

Ms. Simran Gorla, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached by way of filing the present petition praying for grant of regular bail in case FIR No.79 dated 27.07.2024 under Section 15 of NDPS, 1985 registered at Police Station Shambhu, District Patiala.

2. Succinctly, facts of the case are that the police party received a secret information to the effect that Deep Kumar (petitioner) along with Parminder Singh @ Gurditta, are involved in smuggling of poppy husk. They would be coming in their truck/container No.PB10-JD-6189 from Ambala side towards Ludhiana along with large quantity of contraband (poppy husk) and if the barricading is laid, they could be arrested along with the contraband. On receiving the secret information, a raiding team was constituted and barricading was laid. Thereafter, the police party saw a truck coming, as disclosed and the same was stopped. The driver of the

truck, on asking, disclosed his name as Deep Kumar and the person sitting along with him disclosed his name as Parminder Singh alias Gurditta. They were suspected to be carrying some contraband. They were given the offer of search. Thus their personal search and that of the truck was conducted and three plastic bags, each weighing 20 kgs. of poppy husk, total 60 kgs. of poppy husk were 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. The investigation commenced. Samples taken were send to the FSL. On the receipt of the report of FSL, challan was presented, charges were framed and the trial commenced. The petitioner approached the learned Special Court at Patiala, praying for grant of bail. However, on hearing, the same was declined vide order dated 07.04.2025. Hence, the petitioner is before this Court by way of filing the present petition.

3. It has been contended by the counsel for the petitioner that the petitioner has been falsely implicated in the present case. He submits that in the case FIR has been registered on the basis of a secret information, however, there is violation of the mandatory provisions of Section 42 NDPS Act. He submits that the alleged recovery in the present case was effected from a public place and thus there is violation of Section 50 of NDPS Act as well. It is submitted that the alleged recovery has been planted upon the petitioner and the whole case of the prosecution is based on the concocted story. It is submitted that the petitioner is behind bars since the date of his arrest and thus, he has completed incarceration of more than 01 year. However, there is no material progress in the trial. The petitioner was implicated in 01 more case, however, he is on bail in that case.

4. Per contra, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that on due compliance of provisions of NDPS Act, the recovery of 60 kgs. of poppy husk has been effected from the truck which was being driven by the petitioner, which is commercial quantity and thus provisions of Section 37 of the NDPS Act are attracted. On instructions, he has submitted that out of 18 prosecution witnesses, 02 witnesses have been examined till date. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is inferred that the case of the prosecution is based on a secret information. As per the custody certificate, the petitioner is behind bars since 27.07.2024. The alleged recovery from the petitioner is 60 kgs. of *poppy husk* which is a commercial quantity. Custody certificate of the petitioner would show that the petitioner has suffered incarceration of 01 year and 20 days as on 23.08.2025. It further reveals that the petitioner is involved in one more case, however, he is on bail. Out of total 18 prosecution witnesses, 02 witnesses have been examined till date.

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.

20. xxxxx

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.

22 xxxxx

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 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

25.08.2025

'R. Sharma'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>