



CRM-M-44609-2025

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

CRM-M-44609-2025

Date of Decision: 22.08.2025

Gurbant Singh @ Bunty

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Karanjit Singh Brar, Advocate, for the petitioner.

Mr.Raj Karan Singh, 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.36 dated 24.04.2024 under Sections 21(C) and 23 of NDPS Act, 1985 (Section 29 of NDPS Act added lateron), registered at Police Station Sadar Jalalabad, District Fazilka.
2. Succinctly the facts of the case are that when the police party on patrolling, then Coy Commander "C" Coy 160 Bn BSF BOP NS Wala, produced a letter alongwith one packet of heroin. As per the contents of the letter received to the police, request was made for lodging an FIR. Three persons, namely, Sonu Singh @ Sonu, Angrej Singh @ Gaggi and Gurbant Singh @ Banti (petitioner) were questioned by BSF, who disclosed that one packet of contraband was lying in general area of wheat field near house of Gurbant Singh. On 24.04.2024 at about 06:30 a.m., search of the area was conducted and one yellow packet wrapped, suspected to be contraband heroin, was recovered. On examination of the recovered packet, it was found to be containing 520 grams of heroin. Thus, the FIR was registered and the investigation commenced. The petitioner was arrested on 24.04.2024. On completion of the investigation, challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of



learned Judge, Special Court, Fazilka, praying for grant of bail, however, finding no merit, the same was declined vide order dated 05.12.2024. Aggrieved by the same, the petitioner is before this Court praying for grant of bail by way of filing of present 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 submits that the petitioner is not only arrested in the present case, but also a day prior he was implicated in one more FIR i.e. FIR No.33 dated 23.04.2024. He submits that during the investigation in FIR No.33, disclosure statement of co-accused Angrej Singh was recorded on 23.04.2024, wherein, he disclosed that one more packet of heroin has been concealed in fields and he only has the knowledge of the same and he could get recovered the same. However, the petitioner has been implicated in the present case on a false and frivolous allegations as is evident from the present FIR. He submits that once recovery of both packets of heroin had already been effected on 23.04.2024 itself, there was no question of recovery of second packet of heroin on 24.04.2024 as has been alleged in the FIR dated 24.04.2024. He submits that the petitioner has no criminal antecedents and he is behind bars since the date of his arrest. He submits that there is violation of mandatory provisions of Sections 42 and 50 of the NDPS Act in the present case. He further submits that fundamental right of the petitioner of speedy trial has been defeated and thus, in the facts and circumstances of the present case, there being false implication of the petitioner, he deserves to be granted regular bail.

4. On the other hand, learned State counsel has vehemently



opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner was duly named in the FIR. He submits that recovery has been effected by the BSF wherein two packets of heroin containing 500 grams and 520 grams of heroin had been recovered and recovery in the present case is 520 grams of heroin, which falls under the commercial quantity and thus, provisions of Section 37 of the NDPS act are attracted. On instructions, he has submitted that 03 witnesses have been examined out of total 13 prosecution witnesses. He has placed on record the custody certificates of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner is facing prosecution in two FIRs i.e. FIR No.33 and FIR No.36 (present FIR), which are lodged on 23.04.2024 and 24.04.2024 respectively. The custody certificate of the petitioner would show that he has suffered incarceration of 01 year, 03 months & 25 days as on 21.08.2025. Except these two FIRs, 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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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.’

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. It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.
10. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

		(RAJESH BHARDWAJ)
		JUDGE
22.08.2025	Whether Speaking/Reasoned :	Yes/No
sharmila	Whether Reportable :	Yes/No