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

CRM-M-46483-2025

Date of decision :28.08.2025

Arjinder Singh @ Jinder**....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Rahul Vohra, Advocate (Legal Aid)
for the petitioner.

Mr. Raj Karan Singh, A.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present second petition has been filed for grant of regular bail in case FIR No.133 dated 16.10.2024 under Section 21(b) & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (later on offence under Sections 21C, 61, 85 of NDPS Act were added), registered at Police Station Sultanwind, District Amritsar.
2. Succinctly the facts of the case are that the Police party while on patrolling on 16.10.2024 saw three persons coming on a motorcycle out of them one was woman. On seeing the police, they got perplexed and the person sitting behind the driver of the motorcycle handed over one envelope to the woman sitting behind him, who tried to throw the envelope. However, they were apprehended. On asking, the driver of the motorcycle disclosed his name as Arjinder Singh @ Jinder (present petitioner), the second person sitting behind the driver of the motorcycle, disclosed his name as Sukhbir Singh @ Bittu and the woman sitting behind him, disclosed her name as Sarabjit Kaur. They were suspected to be carrying some contraband and thus, search was conducted. On



conducting the search, 200 grams of heroin was recovered. They failed to produce any license regarding possession of the same and hence, the FIR was registered and both were arrested on spot. The investigation commenced. Samples taken were sent to the FSL. On conclusion of investigation, challan was presented and on framing of charges, the trial commenced. The petitioner approached the Learned Additional Sessions Judge, Amritsar praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Additional Sessions Judge, Amritsar vide order dated 17.12.2024. Aggrieved by the same, the petitioner earlier approached this Court by way of CRM-M-12909-2025, however, the same was dismissed as withdrawn vide order dated 12.03.2025. Hence, the petitioner is before this Court by way of filing of present second petition for grant of bail.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. He submits that the alleged recovery was effected from the co-accused as the petitioner was driving the motorcycle. He submits that thus, there was nothing in the conscious possession of the petitioner. It is submitted that the petitioner is behind bars since the date of his arrest. He further submits that even otherwise there is a violation of Section 50 of NDPS Act, in conducting the search. He submits that the petitioner has no criminal antecedents and his right of speedy trial has been defeated as there is no progress in the trial. He thus submits that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by the counsel for the petitioner and submits that all the 03 accused who were riding on the motorcycle were apprehended on spot



and 200 grams of heroin was recovered from them. It is submitted that on their disclosure, complicity of 4th accused i.e. Rajwinder Kaur surfaced from whom another 800 grams of heroin was recovered. He submits that the total contraband recovered in the present case is of commercial quantity and thus, provisions of Section 37 of NDPS Act, are attracted. He, on instructions, has submitted that out of total 14 prosecution witnesses, none has been examined so far. He has placed on record the custody certificate of the petitioner on record.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested on 16.10.2024, when he was driving the motorcycle. The recovery effected from the pillion rider was 200 grams of heroin which is a non-commercial quantity. However, another 800 grams of heroin was recovered, thereafter, from 4th accused, Rajwinder Kaur and thus, the total recovery effected in the present case is of commercial quantity. As submitted before this Court, out of total 14 prosecution witnesses, none has been examined so far. As per custody certificate, the petitioner has suffered an incarceration of 10 months and 09 days as on 27.08.2025. It further reflects that the petitioner has no criminal antecedents.

6. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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.

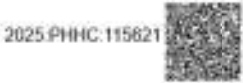
20. xxxxx

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. 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 conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court.



8. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for the grant of 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.

28.08.2025
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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No