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

**CRM-M-46652-2025**

Date of Decision: 29.08.2025

Naveen

..... Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Ms. Apurva Walia, Advocate, for  
Mr. Saurav Bhatia, Advocate, for the petitioner.  
Ms. Diya Sodhi, Sr. DAG, Haryana.

**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.334 dated 07.08.2024 under Section 21(C) of NDPS, 1985 (offence under Sections 27A, 29 of NDPS Act added lateron) and Section 238, BNS, 2023, registered at Police Station Old Subji Mandi, District Rohtak.

2. Succinctly, facts of the case are that on 07.08.2024, the police party while on patrolling received a secret information to the effect that Naveen (petitioner) son of Hawa Singh, is indulged in selling intoxicant substance. It was informed that he would be coming on his motorcycle towards the street of ration depot in front of Saini College. In case of barricading, he could be arrested alongwith the contraband. On receiving the secret information, a raiding team was constituted and raid was conducted at the disclosed place. A person as informed was seen coming on the motorcycle and he was stopped. He was suspected to be carrying some contraband and thus, search was conducted. On conducting the search of his right pocket of lower, 256 grams of heroin was recovered. He failed to



produce the licence regarding the possession of the same and thus, on the registration of the FIR, he was arrested on the spot. The investigation commenced. Samples taken were sent to the FSL. The petitioner approached the Court of learned Additional Sessions Judge, Rohtak praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 18.03.2025. Hence, the petitioner has approached this Court praying for grant of regular bail by way of filing the 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. She has submitted that the FIR has been registered on the basis of secret information, however, there is violation of mandatory provisions of Section 42 of the NDPS Act. She submits that recovery has been effected from the pocket of the petitioner and thus, admittedly, recovery is from the person of the petitioner, but there is violation of mandatory provisions of Section 50 of the NDPS Act. She submits that no independent witness has been joined at the time of effecting recovery. To buttress her arguments, she submits that even otherwise the alleged recovery is 256 grams of heroin, which is marginally above the commercial quantity. She submits that though the petitioner is falsely implicated in two other cases, however, he is on bail in those cases. It is submitted that the petitioner is behind bars since the date of his arrest, however, there is no material progress in the trial. She, thus, submits that the petitioner deserves the concession of regular bail.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. She has submitted that on



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due compliance of the provisions of the NDPS Act, recovery of 256 grams of heroin was effected from the pocket of petitioner, which is commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted. On instructions, she has submitted that out of 17 prosecution witnesses, 02 witnesses have been examined till date. She 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 petitioner is behind bars since 07.08.2024. The alleged recovery from the petitioner is 256 grams of heroin, which as argued is marginally above the commercial quantity. Custody certificate of the petitioner would show that the petitioner has suffered incarceration of 01 year & 19 days as on 28.08.2025. It further reveals that though the petitioner is involved in two more cases, however, he is on bail in both cases, whereas, the petitioner is shown to be in jail in FIR No.148, but as per Annexure P-3, the petitioner is on bail in that case as well. Out of total 17 prosecution witnesses, two witnesses have been examined.

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

*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”<sup>22</sup> (also see Donald Clemmer’s ‘The Prison Community’ published in 1940<sup>23</sup>). 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.



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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**

**29.08.2025**

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