



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

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CRM-M-50133-2025

Date of Decision: 12.09.2025

Durga Lal**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ****Present:** Mr. K.B.S. Mann, Advocate for the petitioner.

Ms. Simran Gorla, A.A.G., Punjab..

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in case FIR No.11 dated 12.02.2024 under Sections 18, 25, 29 of NDPS Act, 1985, registered at Police Station Barnala, District Barnala.

2. Succinctly, facts of the case are that on 12.02.2024 the Police party while on patrolling saw one Activa bearing registration No.RJ-33-SJ1240 on which two persons were coming. On seeing the Police, they got perplexed and tried to escape, however, they were apprehended by the Police party. On asking, the rider of the scooter disclosed his name as Durga Lal (petitioner), whereas, pillion rider disclosed his name as Ramesh Chand Suman. They were suspected to be carrying some contraband and thus, were given offer to be searched. On conducting search of the dickey of the scooter, a polythene bag was recovered containing some contraband. On weighing, the same was found to be 3 kgs of opium. Both of them failed to produce any licence regarding possession of the same and thus, the FIR was registered and they were arrested on the spot. Samples taken were sent to the FSL. On registration of the FIR, the investigation commenced and the challan was presented. On framing of



charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Barnala 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 18.09.2024. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present petition.

3. Learned counsel for the petitioner, at the outset, prays for the grant of bail on the basis of parity with that of the co-accused. He has drawn the attention of this Court to the order passed by this Court in **CRM-M-65349-2024** dated 19.03.2025 whereby co-accused of the petitioner, namely, Ramesh Chand Suman, has been granted the concession of bail. He has submitted that case of the petitioner is at par with the co-accused, who has been granted bail by this Court. He submits that on the basis of the parity, petitioner deserves to be granted bail as case of the petitioner is similar to that of the co-accused, who has already been granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that it was a chance recovery effected in the presence of DSP on due compliance of mandatory provisions of NDPS Act. He submits that recovery effected from the petitioner is 03 kgs of opium, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. She endorsed the fact that the case of petitioner is at par with co-accused, namely, Ramesh Chand Suman, who has already been granted bail by this Court. She has placed on record custody certificate of the petitioner today in the Court and the same is taken on record.



5. After hearing counsel for the parties and perusing the record, it is deciphered that the alleged recovery of 3 kgs of opium was effected from the dickey of the scooter. The custody certificate would reflect that he has suffered incarceration of 01 year 06 months & 30 days as on 11.09.2025. It further reflect that the petitioner is not involved in any other case. Admittedly, co-accused of the petitioner, namely, Ramesh Chand Suman, has already been granted bail by the Court vide order dated 19.03.2025 passed in **CRM-M-65349-2024**.

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. Thus, keeping in view the arguments raised by both the sides, this Court is of the opinion that learned counsel for the petitioner succeed in making out a case for grant of regular bail to the petitioner on the basis of parity.

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

12.09.2025
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(RAJESH BHARDWAJ)
JUDGE

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