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

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CRM-M-51296-2025 (O & M)

Date of decision: 17.09.2025

GURSEWAK SINGH

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sameer Sachdeva, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. The present petition filed under Section 483 of BNSS, is for grant of regular bail to the petitioner in case FIR No.124 dated 01.07.2025, registered at Police Station Sadar Patti, District Tarn Taran, under Section 15/61/85 NDPS Act.

2. Learned counsel submits that the petitioner has been in custody for 2 months and 10 days. He has been falsely implicated due to high handedness of the local police and the recovery was planted upon him. He has three minor children and aged parents to look after, the family responsibility rests on his shoulder. The investigation is going to take a long time to be completed.

3. On the other hand, learned State counsel opposes the prayer on the ground that in the present case, 58.155 kgs of poppy husk was recovered from the vehicle owned and driven by the petitioner, whereas 4

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quintal, 51 kgs and 845 grams, from the truck bearing No.PB02EF 9547, owned by immediate family of the petitioner, driven by co-accused Gurdev Singh. They were apprehended with the commercial quantity of contraband. The investigation is going on. There is every possibility of him fleeing from justice, therefore, he prays for the dismissal of the present petition.

4. Heard and perused.

5. The contents of FIR, as mentioned in Annexure P-1, read thus:

“SHO, PS Sadar Patti. Today, I ASI Vinod Kumar No.1118/T.T. CT. Gurpreet Singh No.315/T.T. Computer Operator CT Gurpreet Singh No.427/TT alongwith Laptop and Printer alongwith Accessory on Govt. vehicle bearing No.PB-65-BG-6188, driven by Driver HC Kulwant Singh No. 15/TT were going towards Patti turn Chuslewal, Boparai, Gariaala etc. from Tarn Taran in connection with patrolling and checking of bad elements. When the police party reached near Boparai Bus Stand, then a secret informer came and informed me ASI that a truck bearing no. PB-02-EF-9547, which is being driven by Gurdev Singh son of Upkar Singh resident of Chela Colony, Bhikhiwind and alongwith him Gurpreet Singh son of Pargat Singh resident of Chola Colony, Bhikhiwind who is sitting on conductor side, they have loaded onion on the truck and under the sacks of onion they have concealed poppy husk who are today coming from Harike side to Bhikhiwind with the truck and alongwith them a car make Scorpio bearing No. PB-88-7587 colour black which is being driven by Gursewak Singh son of Lakhbir Singh resident of Kale, PS Bhikhiwind and alongwith him Gursewak Singh son of Malwinder Singh resident of Kamboj Dhari Wala, PS Chohla Sahib is also sitting in the car, they are also coming. All of them in connivance with each other are in the business of selling poppy husk and the Scorpio car may also be checked as there is possibility of poppy husk lying in the car. In case the barricade is laid on some suitable place and the aforementioned vehicles are checked then all of them

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can be apprehended with poppy husk. I ASI after gathering more information from the secret informer, released him with necessary instructions. Since this information is credible and the offence falls under Sections 15,61,85 of the NDPS Act. Therefore after writing the ruqqa on laptop and printer, the same is being sent through CT Gurpreet Singh No. 315/TT to the Police Station Sadar Patti for registration of FIR. After registration of the case FIR no. may be informed. Alongwith the same a separate report under Section 42 NDPS Act was prepared and after taking its print the same is being sent to the SHO alongwith the ruqqa. The special reports are being prepared and are sent to the Illaqa Magistrate and to the senior police officials. Control room is informed through wireless. I ASI alongwith companion employees are proceeding to Bus Stand Chuslewal for laying nakabandi and for recovery, on the Govt. vehicle. Today in the area of near Bus Stand Boparai. Time: 2:20 AM Sd/- ASI Harjinder Singh 593/TT CIA Tarn Taran dated 01.07.2025.”

6. The petitioner alongwith other co-accused were nabbed on the spot by intercepting their vehicles, based on secret information and a huge quantity of contraband has been recovered from them. There is no denial that Scorpio wherefrom 58.155 kgs of poppy husk was recovered, was in ownership of the petitioner and being driven by him at the relevant time, while recovery of 4 quintal, 51 kgs and 845 grams, was from the truck also owned by his family members.

7. The investigation in the present case is underway; the source of origin and the entire chain of supply of contraband is still to be ascertained, besides it, the recovery effected in this case falls within the ambit of ‘commercial quantity’ and hence, attracts the rigors of Section 37 of the NDPS Act.

8. Hon’ble the Supreme Court in **State of Kerala etc. vs. Rajesh etc.** 2020(1) RCR (Criminal) 818, while allowing the appeal filed

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by the State against grant of bail to the accused, observed and held that, “The scheme of Section 37 reveals that the exercise of power to grant bail is not only subject to the limitations contained under Section 439 of the CrPC, but is also subject to the limitation placed by Section 37 which commences with nonobstante clause. The operative part of the said section is in the negative form prescribing the enlargement of bail to any person accused of commission of an offence under the Act, unless twin conditions are satisfied. The first condition is that the prosecution must be given an opportunity to oppose the application; and the second, is that the Court must be satisfied that there are reasonable grounds for believing that he is not guilty of such offence. If either of these two conditions is not satisfied, the ban for granting bail operates.” Further that, “The expression “reasonable grounds” means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. In the case on hand, the High Court seems to have completely overlooked the underlying object of Section 37 that in addition to the limitations provided under the CrPC, or any other law for the time being in force, regulating the grant of bail, its liberal approach in the matter of bail under the NDPS Act is indeed uncalled for.”

9. Furthermore, in **Narcotics Control Bureau v. Mohit Aggarwal**, 2022(18) SCC 374, wherein order granting post-arrest bail to the accused, was

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set aside by observing that held that, “In our opinion the narrow parameters of bail available under Section 37 of the Act, have not been satisfied in the facts of the instant case. At this stage, it is not safe to conclude that the respondent has successfully demonstrated that there are reasonable grounds to believe that he is not guilty of the offence alleged against him, for him to have been admitted to bail. The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the NDPS Act.”

10. This Court in **Kuldeep Singh vs. State of Punjab**, CRM-M-31584-2024, decided on 31.08.2024, wherein also the petitioner had contended that the alleged contraband recovered was planted upon him; no independent witness was joined; the mandatory provisions of NDPS Act were complied with; petitioner was not involved in any other case; trial was likely to take time as even challan had not been filed so far and petitioner was in custody for about 3½ months, dismissed the petition for grant of regular bail, noticing that the commercial quantity of contraband was recovered from him, it being 3.5 kgs of opium and thus, rigors of Section 37 NDPS Act would be attracted against him and the pleas raised cannot be looked into at this stage as the same is to be decided by the trial Court after appreciating the evidence and material on record before it.

11. The stringent provisions as contained in the statute are to deal with the drug menace plaguing the society, as the youth are being led

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on a path having deleterious effects, thereby destroying the very social fabric.

12. The facts and circumstances of the case when viewed in light of the afore-referred judgments, this Court does not find it to be a fit case to enlarge the petitioner on bail.

13. Resultantly, the present petition is dismissed.

17.09.2025
parveen kumar

(AMAN CHAUDHARY)
JUDGE

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