

2025:PHHC:082964



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

CRM-M-58721-2024
Date of Decision:10.07.2025

Gurinder Singh @ Ginda Multani	...	Petitioner
	Versus	
State of Punjab	...	Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Yashpal Thakur, Advocate, for the petitioner(s).
Ms. Simran Gorla, AAG, 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.81 dated 07.09.2023 under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Badali-alia Singh, District Fatehgarh Sahib.
2. Succinctly, facts of the case are that on 07.09.2023, the police party while on patrolling, spotted a person coming from the side of village Brass, who was carrying a black colour plastic bag on his head. On seeing the police, he perplexed. On suspicion, he was stopped and on asking, he disclosed his name Gurinder Singh @ Ginda @ Multani (petitioner). He was suspected to be carrying some contraband. After giving offer for the personal search, the same was conducted and out of the said black colour plastic bag, 1020 Lomotil (Diphenoxylate Hydrochloride) intoxicant tablets were recovered. He failed to produce any licence regarding possession of the same. Hence, he was arrested on the spot and on registration of the FIR, the investigation commenced and recovered substance was sent to the FSL lab and the challan was presented. On framing of charges, the trial commenced. The petitioner approached the Court of

learned Judge, Special Court, Fatehgarh Sahib 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 26.10.2023 (Annexure P-2). Thereafter, he approached this Court by way of filing CRM-M-56690-2023 (Annexure P-5) and CRM-M-51686-2024 (Annexure P-6), which were dismissed as withdrawn and dismissed for want of prosecution on 20.05.2024 and 25.10.2024, respectively. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present third petition.

3. It has been contended by learned counsel for the petitioner that the petitioner has been roped falsely and frivolously in the present case. He further submits that the alleged recovery has been effected from a public place, but independent witness has not been joined. He submits that petitioner is 60% handicapped. He submits that there is violation of mandatory provisions of the NDPS Act. He submits that personal search of the petitioner was also carried out and thus, there is violation of Section 50 of the NDPS Act as well. He submits that recovery as alleged to have been effected is totally a planted recovery. He submits that the petitioner has no criminal antecedents, as he has never been involved in any other case. He further submits that the alleged recovery which has been shown from the petitioner, there are three other FIRs registered regarding the same batch by the same police station. He submits that the petitioner is behind the bars since the date of his arrest i.e. 07.09.2023 and he has completed incarceration of about 01 year and 10 months, but there is no progress in the trial. He, thus, submits that in view of 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 counsel for the petitioner. She has submitted that on due compliance of Section

50 of the NDPS Act, recovery of 1020 Lomotil (Diphenoxylate Hydrochloride) tablets was effected from the petitioner and as per FSL report weight of recovered 1020 tablets is 64.26 grams, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. It is submitted that out of total 14 prosecution witnesses, 02 witnesses have been examined so far and 08 witness have been given up and 04 witnesses are yet to be examined and the case is fixed for 22.07.2025. She has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that recovery allegedly effected from the petitioner is commercial one. Out of total 14 prosecution witnesses, 02 witnesses have been examined till date. The custody certificate would reflect that the petitioner has suffered incarceration of 01 year 10 months & 01 day as on 09.07.2025. Admittedly, it further reflects that 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.

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

10.07.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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