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

CRM-M-58838-2024

Date of decision : 01.03.2025

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

Present :- Mr. Pranav Chadha, Advocate
for the petitioner.

Mr. Karunesh Kaushal, A.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner praying for grant of regular bail in case FIR No.207 dated 13.09.2023, under Sections 22, 61, 85 of NDPS Act, 1985 registered at Police Station Mahilpur, District Hoshiarpur.

2. Succinctly the facts of the case are that the police party while on patrolling on 13.09.2023, when arriving from Mahilpur, they saw a white colour car was being driven in a rash and negligent manner in which two persons were sitting. The police party succeeded in stopping the car. The driver of the car, on asking, disclosed his name to be Dilbag Singh @ Cheema and the person sitting on his adjoining seat, disclosed his name as Sukhdev Singh @ Monu (present petitioner). They were suspected to be carrying some contraband and thus, given an offer to be searched. On the search of Dilbag Singh, 289 grams of heroin was recovered from the polythene bag which was recovered from left pocket of Capri, whereas from the search of the petitioner, a transparent polythene bag was found in



his left pocket of the capri and 100 grams of heroin was recovered from him. Both failed to produce any licence for possession of the contraband and thus, FIR was registered and they were arrested on the spot. On the registration of FIR, investigation commenced. Samples were taken and sent to the Forensic Science Laboratory. Thereafter, the petitioner approached the Ld. Judge, Special Court, Hoshiarpur for grant of bail, however, after hearing both the sides, the same was declined by the Judge, Special Court, Hoshiarpur vide order dated 20.09.2024. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. It has been contended by counsel for the petitioner that the petitioner has been falsely implicated in the present case. He submits that the alleged recovery was effected from the petitioner at a public place, however, no independent witness from the public was joined by the police party. He submits that the alleged recovery has been effected from the person of the petitioner but there is gross violation of mandatory provisions of Section 50 of NDPS Act. He submits that the co-accused, namely, Dilbag Singh, from whom 289 grams of heroin was recovered has already been enlarged on bail by the learned trial Court under Section 167(2) Cr.P.C. He submits that though the petitioner is involved in 02 more cases, however, he is on bail in the said cases. He submits that the petitioner is behind bars since the date of his arrest, however, till date the prosecution has not been able to conclude the trial. He thus submits that in the facts and circumstances of the present case, he deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the



recovery effected was of 100 grams of heroin has been effected from the petitioner on compliance of the mandatory provisions of the Act. He submits that the co-accused of the petitioner has been granted bail under Section 167(2) Cr.P.C. and not on merits. He submits that the petitioner is involved in two other cases out of which one case is under NDPS Act, and thus, he is a habitual offender. He further submits that though the recovery effected from the person of the petitioner is 100 grams of heroin, however, both were travelling in the same car and thus, the total recovery effected in the present case comes to 389 grams of heroin, which is a commercial quantity, and thus provisions of Section 37 of NDPS Act, are attracted. He produced the custody certificate of the petitioner in the Court. He, on instructions, has submitted that out of 10 prosecution witnesses, 03 witnesses have been examined so far. He submits that in the overall facts and circumstances of the case, petitioner does not deserve to be granted bail.

5. On hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested on 14.09.2023. From the search of the petitioner, 100 grams of heroin was recovered. As submitted by learned State counsel, out of 10 prosecution witnesses, 03 witnesses have been examined so far. Though he is involved in 02 more cases, however, he is on bail in those cases. There is no gain saying that speedy trial is the fundamental right of every accused.

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 the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular 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 Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

01.03.2025
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(RAJESH BHARDWAJ)
JUDGE

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