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

CRM-M-57711-2025

Date of Decision: 28.11.2025

Sukhwinder Singh @ Sukha

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms.Riffi Birla, Advocate, for the petitioner.

Mr.Raj Karan Singh, AAG, Punjab.

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.20 dated 16.09.2024 under Sections 21(C), 29, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (offence under Section 238 of BNS and Section 39, 192 of Motor Vehicle Act, 1988 added lateron), registered at Police Station SSOC Fazilka, District Fazilka.

2. Succinctly, facts of the case are that on 16.09.2024, the police party while on patrolling received a secret information to the effect that Puran Singh and Sukhwinder Singh @ Sukha (petitioner) are involved in smuggling of heroin. It was informed that they have contact with Pakistani smuggler and have smuggled heavy quantity of heroin through drone. It was also informed that they are coming on foot towards their house after taking heroin from border side and in case of barricading, they could be arrested alongwith the contraband. On receiving the secret information, a raiding team was constituted and reached the place as disclosed. Two person were seen coming, out of them one person was holding a polythene bag. On seeing the police, he threw the bag on the ground, however, both the persons



were apprehended. On asking, they disclosed their names to be Puran Singh and Sukhwinder Singh @ Sukha (petitioner). The polythene bag thrown, was searched, in which two bags were found to be containing 500 grams of heroin each. Thus, in total 01 kg of heroin was recovered. They failed to produced any licence regarding the possession of the same, and thus, on registration of the FIR, they were arrested. The investigation commenced. Samples taken were sent to the FSL. On receiving the FSL report, the challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Fazilka, 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 21.04.2025. 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 and frivolously implicated in the present case. She submit that the FIR in the present case was registered on the basis of secret information and there is blatant violation of Section 42 of the NDPS Act. She further submits that the alleged recovery has been effected from a public place, however, no independent witness has been joined and thus, there is violation of Section 50 of the NDPS Act. To buttress her arguments, she has submitted that the petitioner has no criminal antecedents as he has never been involved in any other criminal case. It is submitted that the petitioner is behind bars from the last more than one year, however, there is no progress in the trial till date. She has further submitted



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that as per the case of the prosecution, the alleged polythene bag from which the recovery was effected, was thrown by co-accused Puran Singh and not by the petitioner and thus, the petitioner was not having the conscious possession of the contraband. She, thus, submits that in the facts and circumstances of the present case, the petitioner deserves to be granted regular bail.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. He has submitted the petitioner was specifically named in the secret information and the recovered contraband i.e. 01 kg of heroin is a commercial quantity and thus, provisions of Section 37 of the NDPS Act, are attracted in this case. On instructions, he submits that out of total 20 prosecution witnesses, no witness has been examined till date. He 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 the FIR in the present case was registered on the basis of secret information and the petitioner was arrested on 16.09.2024. The bag from which the alleged recovery effected, was thrown by the co-accused. As submitted before this Court, out of total 20 prosecution witnesses, no witness has been examined. The custody certificate would show that the petitioner has suffered incarceration of 01 year, 01 month & 20 days as on 27.11.2025. It further shows 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.

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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. 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.

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.

28.11.2025
sharmila

(RAJESH BHARDWAJ)
JUDGE

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