

2025:PHHC:064053



S. No. 226

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-60299 of 2024

Date of Decision:14.05.2025

Gurparkash Ram

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present:- Mr. L.S. Sekhon, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in a case FIR No.125 dated 12.03.2024 registered under Sections 15 and 18 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sadar Thanesar, District Kurukshetra.

2. Succinctly, the facts of the present case are that Police party on 12.03.2024 received a secret information to the effect that Mandeep Singh, Pardeep Singh and Gurparkash (petitioner in present case) were travelling in truck bearing registration No.PB-32-P-2565 from Kolkata. It was informed that while coming they were bringing opium and poppy husk in large quantities for selling the same in State of Punjab and if the barricade is laid, they can be arrested along with the contraband. On finding the information reliable, a raiding team was constituted and barricading was laid at the place as disclosed by the informer. A truck, as disclosed was seen coming, which was stopped. Three persons were found travelling in the truck and on asking, they disclosed their names as Mandeep Singh, Pradeep Singh and Gurprakash. They were suspected to be carrying some contraband in the truck and thus they were given notice for the search. On conducting the search of the truck, three polythene bags were recovered underneath the cleaner's seat. From the one bag, around 1 Kg 188 grams



of poppy husk and from two other polythene bags, 2 Kg 600 grams of opium were recovered. All the three persons failed to produce any licence regarding production of the same and thus the FIR was registered and they were arrested on the spot. On registration of FIR, the investigation commenced. The sample taken was sent to the FSL. On receiving the FSL report, the challan was presented. The petitioner approached the learned Additional Sessions Judge, Kurukshetra for grant of bail. However, after hearing both the sides, the same was declined vide order dated 02.07.2024. Being aggrieved, he earlier filed CRM-M-33804 of 2024, which was dismissed as withdrawn vide order 12.08.2024 passed by this Court. Hence aggrieved, the present second petition has been filed.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that as is evident, FIR was registered on the basis of secret information, however, there is violation of mandatory provisions of Section 42 of the NDPS Act. He submits that alleged recovery has been effected from a public place, however, no independent witness has been joined. He further submits that otherwise also there is violation of provisions of Section 50 of the NDPS Act as a joint offer has been given to all the accused for searching the vehicle. He submits that the petitioner has no criminal antecedents and he is behind bars from the date of his arrest, however, there is no progress in the trial. He further submits that in the facts and circumstances of the case, the petitioner deserves to be granted the benefit of bail.

4. Per contra, learned State Counsel, has opposed the submissions made by learned counsel for the petitioner. He submits that on due compliance of Section 42 of the NDPS Act, the recovery has been effected. The petitioner was duly named in the secret information. He submits that the recovery effected from the petitioner and the co-accused weighs 2 Kg 600 grams of opium, which is a commercial quantity and thus the provisions of Section 37 of the NDPS Act are attracted. On instructions, he has submitted that out of 13 witnesses, no witness has been examined so far and he filed custody certificate of the petitioner.



5. After hearing learned counsel for the parties, it is deciphered that FIR was registered on the basis of secret information. The recovery has been effected from the truck where three polythene bags were found underneath the seat of the cleaner. From one polythene bag, 1 Kg 188 grams of poppy husk and from two other polythene bags, 2 Kg 600 grams of opium was recovered. As per the Schedule, the opium weighing more than 2.5 kg falls under the commercial quantity. The custody certificate shows that the petitioner is behind bars since the date of his arrest, i.e. 12.03.2024 and he has suffered incarceration of 01 year 02 months as on 12.05.2025. It further reflects that he has no criminal antecedents. No witness has been examined as on date.

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.

May 14, 2025
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(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No