



CRM-M-61306-2024

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

CRM-M-61306-2024

Date of Decision: 22.01.2025

Satgur Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Mr. J.S. Arora, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting him regular bail in case FIR No.70 dated 21.11.2023 under Sections 15 and 29 of NDPS Act, 1985, registered at Police Station Thulliwal, District Barnala.

2. As per facts of the case, on 21.11.2023 the Police party received a secret information to the effect that Satgur Singh (petitioner) is involved in selling poppy husk and he was bringing the contraband from other State in his vehicle Balero and in case of *naka*, he could be arrested along with the contraband. On receiving the secret information, the naka was laid and as per secret information, a Bolero was seen coming, which was stopped by the Police. On asking, the driver of the vehicle disclosed his name as Satgur Singh (petitioner). On search of the vehicle, 110 kgs of poppy husk was recovered. He was arrested on the spot. On registration of FIR, the investigation commenced. Samples taken were sent to the FSL. The petitioner approached the Court of learned Judge Special Court, Barnala 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 08.10.2024. Hence, the petitioner approached this Court praying for grant of bail by way of filing the present petition.

3. It has been vehemently contended by counsel for the petitioner that petitioner has been falsely and frivolously implicated in this case. He has submitted that the 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 recovery was effected from a public place, but no independent witness was joined. He further submits that there is violation of Section 50 of the NDPS Act as well. He submits that the petitioner is behind bars from the last one year, however, till date there is no progress in the trial. He, thus, submits that in the overall facts and circumstances of the present case, the petitioner deserves to be granted bail.

4. Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that in due compliance of the statutory provisions of the NDPS Act, the FIR was registered and from the conscious possession of the petitioner, 110 kgs of poppy husk was recovered, which is a commercial quantity and thus, provisions of Section 37 of the NDPS Act, are attracted. He has placed on record the custody certificate of the petitioner and has submitted that he is involved in other cases as well, though not under the NDPS Act. He submits that out of 16 prosecution witnesses, 02 witnesses have been examined as on date.

5. After hearing counsel for the parties and perusing the record, it is apparent that the FIR was registered in the present case on the basis of the



secret information and 110 kgs of poppy husk was recovered from the vehicle driven by the petitioner. Out of 16 prosecution witnesses, 02 witnesses have been examined. Custody certificate of the petitioner would show that though the petitioner is involved in other cases under the IPC, however, there is no case against the petitioner under the NDPS Act.

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 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.

(RAJESH BHARDWAJ)
JUDGE

22.01.2025

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Whether Speaking/Reasoned :
Whether Reportable :

Yes/No
Yes/No