



CRM-M-65349-2024

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

CRM-M-65349-2024

Date of Decision: 19.03.2025

Ramesh Chand Suman

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. K.B.S. Mann, 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 regular bail in case FIR No.11 dated 12.02.2024 under Sections 18, 25, 29 of NDPS Act, 1985, registered at Police Station Barnala, District Barnala.

2. Succinctly, facts of the case are that on 12.02.2024 the Police party while on patrolling saw one Activa bearing registration No.RJ-33-SJ-1240 on which two persons were coming. On seeing the Police, they got perplexed and tried to escape, however, they were apprehended by the Police party. On asking, the rider of the scooter disclosed his name as Durga Lal, whereas, pillion rider disclosed his name as Ramesh Chand Suman (petitioner). They were suspected to be carrying some contraband and thus, were given offer to be searched. On conducting search of the dickey of the scooter, a polythene bag was recovered containing some contraband. On weighing, the same was found to be 3 kgs of opium. Both of them failed to produce any licence regarding possession of the same and thus, the FIR was registered and they were arrested on the spot. Samples taken were sent to



the FSL. On registration of the FIR, the investigation commenced and the challan was presented. On framing of charges, the trial commenced. 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 18.09.2024. Hence, the petitioner has approached this Court praying for grant of 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. He submits that as per case of the prosecution, recovery has been allegedly effected at a public place, however, no independent witness has been joined. He submits that as per the case of prosecution, the petitioner was riding pillion and recovery has been effected from the dickey of the scooter. He submits that neither the petitioner is owner of the scooter nor recovery has been effected from his conscious possession. He submits that the petitioner has no criminal antecedents as he has never been involved in any other case. He submits that the petitioner is behind bars since the date of his arrest, but there is no progress in the trial till date. He, thus, submits that in the facts and circumstances, the petitioner deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that it was a chance recovery effected in the presence of DSP on due compliance of mandatory provisions of NDPS Act. He submits that recovery of 3 kgs of opium was effected from the dickey of the scooter on which both the accused were



travelling. He submits that recovery effected from the petitioner falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. 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 petitioner was allegedly riding pillion and alleged recovery of 3 kgs of opium was effected from the dickey of the scooter. The custody certificate would reflect that he has suffered incarceration of 01 year 01 month & 02 days as on 18.03.2025. It further reflect that the petitioner is not involved in any other case.

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.

19.03.2025

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(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned :

Whether Reportable :

Yes/No

Yes/No