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**261+398 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1) CRM-M-62953-2025
Date of decision: 20.11.2025

RAM KRISHAN ...PETITIONER
VERSUS

STATE OF UT CHANDIGARH ...RESPONDENT

2) CRM-M-38948-2025

SANDEEP ALIAS SANDEEP KUMAR ...PETITIONER
VERSUS

STATE OF UT CHANDIGARH ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Abhishek Joon, Advocate
for the petitioner in CRM-M-62953-2025.

Ms. Divya Sharma, Advocate
for the petitioner in CRM-M-38948-2025.

Mr. Rahul Arora, Addl. PP, for UT, Chandigarh.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner(s) have approached by way of filing the present petitions praying for grant of regular bail in case FIR No.11 dated 15.02.2025 under Section 21 and 29 of NDPS Act, 1985, registered at Police Station Mani Majra, Chandigarh.

2. Succinctly the facts of the case are that on 15.02.2025, the police received a secret information to the effect that some persons are selling contraband near Fauji Dhaba, Manimajra. On receiving the same, police reached the location as disclosed and they found three boys standing there and they were suspected some carrying contraband. They were apprehended and on asking they disclosed

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Kumar, and Ramkrishan. On giving the offer, their search was conducted. During the search of Ramkrishan (petitioner in CRM-M-62953-2025), 20.50 grams of heroin was recovered from his trouser pocket. Similarly, 50.74 grams of heroin was recovered from Rajbir Singh, and 18.43 grams of heroin was recovered from Sandeep @ Sandeep Kumar (petitioner in CRM-M-38948-2025). They failed to produce any license regarding the possession of the same and were arrested at the spot. FIR got registered and investigation commenced. The samples taken sent to the FSL. FSL report was received which confirmed that the salt recovered was Racemorphan. On completion of the investigation, the challan was presented, charges were framed and trial commenced. Petitioner(s) approached the learned Judge, Special Court, Chandigarh for grant of bail. However, after hearing both the sides and finding no merit in the same, the learned Judge Special Court, Chandigarh declined the bail applications vide order dated 16.06.2025 and 11.07.2025 respectively. Aggrieved by the same, petitioner(s) are before this Court praying for the grant of bail by way of filing the present petitions.

3. Learned counsel for the petitioner(s) have vehemently contended that the petitioner(s) have been falsely implicated in the present case. They submit that the case of the prosecution is based on the secret information, however, there is a violation of the provisions of Section 42 NDPS Act. They further submit that the petitioner(s) never specifically named in the secret information. They further submit that the alleged contraband was recovered from the personal search of the petitioners, but the provisions of Section 50 of the NDPS Act was violated. Even otherwise, the quantities recovered 20.50 grams from Ram Krishan and 18.43 grams from Sandeep @ Sandeep Kumar fall within the non-commercial category, and therefore, the provisions of Section 37 of the NDPS Act are not attracted.

They further submit that the recovery of the alleged contraband is from the

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personal search of the petitioner(s) but there is a violation of the provisions of Section 50 of NDPS Act. They further submit that even otherwise, the alleged recovery was effected from the petitioner(s) are 20.50 grams and 18.43 grams which is a non-commercial quantity and thus, the provision of Section 37 of NDPS Act are not attracted. They further submit that the petitioner-Ram Krishan is prosecuted in 09 other cases but he is on bail in 08 cases. However, petitioner-Sandeep @ Sandeep Kumar is not involved in any other case. They further submit that in the facts and circumstances, the petitioner(s) deserve to be granted regular bail.

4. *Per contra*, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that on receiving the secret information, the raid was conducted, the petitioner(s) were apprehended on the spot. On personal search of the petitioners, conducted in accordance with the provisions of Section 50 of the NDPS Act. The recovery of 20.50 grams and 18.43 grams of Racemorphan was effected from the petitioner(s), however, the total quantity recovered from all the three accused is 89.67 grams of Racemorphan which is commercial quantity and thus, the provision of Section 37 of NDPS Act are attracted. He further submits that the petitioner-Ram Krishan is the habitual offender as he is involved in multiple other cases. On instructions, he submits that out of 18 prosecution witnesses, none has been examined so far. He has produced custody certificates of both the petitioner(s) today in the Court and the same are taken on record.

5. Heard.

6. On hearing learned counsel for the parties and perusing the record, it is deciphered that the recovery effected from the petitioner(s) are 20.50 grams and

18.43 grams of heroin. Admittedly, the quantity recovered from the petitioner(s) is



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a non-commercial quantity, however, the total quantity recovered from all the three accused is 89.67 grams of Racemorphan which is admittedly a commercial quantity as per schedule provided under NDPS Act. Custody certificates produced would show that the petitioner(s) have completed incarceration of more than 09 months. Although, petitioner-Sandeep @ Sandeep Kumar is not involved in any other case, whereas petitioner-Ram Krishan is involved in 9 other cases but he is on bail in 08 cases. Out of 18 prosecution witnesses, none has been examined so far.

7. 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



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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.”

8. 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.

9. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner(s) succeed in making out a case for grant of regular bail. Accordingly, the present petitions are allowed. Petitioner(s) are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned Trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

10. In case the bail bonds are not furnished by the petitioner-Ram Krishan in CRM-M-62953-2025 during the period of 07 days from today, then his further custody period after one week will not be counted in the present case.

20.11.2025
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(RAJESH BHARDWAJ)
JUDGE

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