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

CRM-M-71179-2025

Date of decision: 22.12.2025

NIGAM @ LUCKY @ DELA

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Satvir Singh, Advocate for the petitioner.

Mr. K.D. Sachdeva, DAG, 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.69 dated 09.04.2025 under Section 21 of NDPS Act, 1985, Sections 25 and 27 of Arms, Act and Sections 132 and 221 of BNS, 2023 (Section 29 of NDPS Act, 1985 and Section 52-A of Prisons Act, 1894 added later on) registered at Police Station Sadar Dhuri, District Sangrur.

2. Succinctly the facts of the case are that on 09.04.2025, police party while on patrolling, they were present near Prince Villa Palace Dhuri in search of drug peddlers, when at about 7:30 P.M, they saw a car white coloured bearing registration No.PB 13BQ 3156 brand Swift, in which 05 young persons were travelling. On suspicion, the same was stopped. On asking, the driver of the car disclosed his name to be Gurpreet Singh @ Bhairo, person sitting on the passenger seat disclosed his name to be Nigam (present petitioner). All five

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Singh @ Bhairo threw away a plastic envelope from his pocket and a pistol fell down from his waist (Dabb). On conducting the search of the same, 125 grams of heroin was recovered. The FIR got registered and investigation commenced. During investigation, the petitioner was arrested on 07.07.2025. He approached the learned Judge, Special Court, Sangrur for grant of bail. However, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Sangrur declined the bail application vide order dated 19.11.2025. Aggrieved by the same, petitioner is before this Court praying for the grant of bail by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He submits that the alleged recovery has been effected from a public place and no independent witness has been joined and the provisions of Section 50 of the NDPS Act was violated. He further submits that the alleged recovery is from plastic envelope allegedly thrown by co-accused, namely, Gurpreet Singh @ Bhairo. However, Gurpreet Singh @ Bhairo has already been granted anticipatory bail by this Court vide order dated 28.11.2025 passed in CRM-M-32113-2025. He further submits that even otherwise, the alleged recovery falls within the category of non-commercial quantity, and therefore, the provisions of Section 37 of the NDPS Act are not attracted. He further submits that during investigation, 1.5 Kgs of heroin has been recovered from the co-accused, namely, Jaspal and fire arms has been recovered from the co-accused, Gurpreet Singh @ Bhairo. Thus, the petitioner cannot be held responsible for the same. He further submits that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. *Per contra*, learned State counsel has opposed the submissions made by

Counsel for the petitioner. He submits that petitioner was travelling along with the



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co-accused, however, he does not deny the fact that co-accused, namely, Gurpreet Singh @ Bhairo has already been granted anticipatory bail by this Court vide order dated 28.11.2025 passed in CRM-M-32113-2025. He further submits that during investigation, 1.5 Kgs of heroin was recovered from the co-accused, namely, Jaspal whereas on the spot 125 grams of heroin was recovered from co-accused, namely, Gurpreet Singh @ Bhairo and total recovery falls within the category of commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. He has produced custody certificate of the petitioner today in the Court and the same is taken on record. He further submits that petitioner is involved in 03 more cases.

5. Heard.

6. On hearing learned counsel for the parties and perusing the record, it is deciphered that the total recovery effected in the present case is 1.625 kgs (125 grams of heroin recovered on the spot and 1.5 kgs recovered during investigation), which falls within the category of non-commercial quantity. The co-accused, namely, Gurpreet Singh @ Bhairo has already been granted anticipatory bail by this Court order dated 28.11.2025 passed in CRM-M-32113-2025. Petitioner has suffered incarceration of 04 months and 11 days as on 22.12.2025. It further reflects that petitioner is involved in 03 more cases, however, in one case, he is on bail.

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 petitioners are 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

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.

9. Thus, keeping in view the overall facts and circumstances of the case,

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this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed. Petitioner is ordered to be released on bail on his 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 during the period of 07 days from today, then his further custody period after one week will not be counted in the present case.

22.12.2025
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(RAJESH BHARDWAJ)
JUDGE

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