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

**CRM-M-4833-2026**

Date of Decision: 29.04.2026

Gurbachan Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

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

Mr.Raj Karan Singh, AAG, Punjab.

**Rajesh Bhardwaj, J. (ORAL)**

1. Present petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.120, dated 24.07.2024, under Section 15(C) of NDPS Act, 1985 (Section 29 of NDPS Act added lateron vide GD No.2 dated 25.07.2024 and Section 27 of NDPS Act added lateron vide DDR No.47 dated 25.07.2024), registered at Police Station Lambi, District Sri Muktsar Sahib, Punjab.

2. Succinctly, the facts of the case are that the police party while on patrolling on 24.07.2024, received a secret information to the effect that Gurbachan Singh (petitioner) is involved in selling poppy husk and had stored a large quantity of poppy husk at his house. It was informed that in case of raid, he could be arrested along with the contraband. On receiving the secret information, a raiding team was constituted and reached at the place as disclosed in the secret information and recovery of 03 quintals of poppy husk was effected. He failed to produce any license regarding the conscious possession of the same. Thus, the FIR was registered and he was arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. The petitioner



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approached the Court of learned Additional Sessions Judge, Sri Muktsar Sahib praying for the grant of regular bail. However, after hearing both the sides and finding no merit in the same, learned Court declined the bail application filed by the petitioner vide order dated 04.10.2024. Earlier, the petitioner approached this Court by thrice by way of filing petitions for grant of regular bail, however, the same were dismissed by this Court vide separate orders. Hence being aggrieved, the petitioner is again before this Court praying for the grant of regular bail by way of filing the present fourth 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 contends that admittedly, the FIR in the present case was lodged on the basis of secret information and thus, there is violation of Section 42 of the NDPS Act. It is contended that the alleged recovery of 03 quintals of poppy husk was planted upon the petitioner. He contends that prosecution has filed supplementary challan against the co-accused and now de novo trial has commenced and thus, there are chances of the trial being not concluded in the near future. To buttress his arguments, he submits that the petitioner has no criminal antecedents as he has never been involved in any other case. He also contends that there is violation of mandatory provision of Section 50 of the NDPS Act in effecting the alleged recovery as well. He, thus, has submitted that in the overall facts and circumstances, the petitioner deserves to be granted bail.

4. *Per contra*, learned State counsel has vehemently controverted the submissions made by counsel for the petitioner. He submits that the



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petitioner was specifically named in the secret information and raid was conducted at his house from where 03 quintals of poppy husk was effected. He submits that on due compliance of the statutory provisions of the NDPS Act, recovery of 03 quintals of poppy husk, has been effected in the present case, which is commercial in nature and thus, provisions of Section 37 of the NDPS Act are attracted in this case. On instructions, he has submitted that out of total 32 prosecution witnesses, none has been examined till date. 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 as per the case of the prosecution, FIR in the present case was lodged on the basis of secret information. As contended before this Court, there is violation of Sections 42 and 50 of the NDPS Act, in the present case. Supplementary challan has been filed against the co-accused and now de novo trial has commenced in this case. The custody certificate would show that the petitioner has suffered incarceration of 01 year, 08 months & 29 days as on 27.04.2026. It further shows that the petitioner no criminal antecedents. No witness has been examined out of total 32 prosecution witnesses.

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.*

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"<sup>22</sup> (also see Donald Clemmer's 'The Prison Community' published in 1940<sup>23</sup>). 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. 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



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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 her 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**

**29.04.2026**  
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|-----------------------------|--------|
| Whether Speaking/Reasoned : | Yes/No |
| Whether Reportable :        | Yes/No |