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

**CRM-M No.6620 of 2026 (O&M)
Date of Decision:04.05.2026**

Hardial Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rajat Dogra, Advocate
for the petitioner.

Mr. Raj Karan Singh, Asstt. A.G., Punjab.

RAJESH BHARDWAJ, J. (ORAL)

CRM-4987-2026

Allowed as prayed for.

CRM-M-6620-2026

1. Present second petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.35, dated 02.03.2025, under Section 21(C) of NDPS Act, registered at Police Station Gate Hakima Amritsar, District Amritsar.

2. Succinctly, the facts of the case are that the police party was on patrolling on 02.03.2025 and when they reached in front of Bhadar Kali Mandir, they saw that one young man was standing beside the ground wall. On seeing the police, he got perplexed and tried to escape from there.



He tried to throw a polythene bag after taking out from the right side pocket of his pant. However, on suspicion, he was apprehended by the police party along with the polythene bag. On asking, he disclosed his name to be Hardial Singh, i.e. the petitioner. He was suspected to be carrying some contraband in the polythene bag, which he tried to throw and, thus, search of the same was conducted. On conducting the search of the polythene bag, 258 grams of heroin was recovered. He failed to produce any licence 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. On completion of the investigation, the challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Amritsar praying for the grant of regular bail. However, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Amritsar declined the bail application filed by the petitioner vide order dated 01.09.2025. Being aggrieved, the petitioner earlier approached this Court by way of filing CRM-M-53081-2025 praying for the grant of regular bail, however, the same was dismissed as not pressed vide order dated 24.09.2025. Hence being aggrieved, the petitioner is again before this Court praying for the grant of regular bail by way of filing the present second petition.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. He has submitted that the alleged recovery in the present case has been effected from the



public place, however, no independent witness has been joined. He has submitted that the recovery of 258 grams of heroin has been allegedly effected from the bag having been thrown by the petitioner and thus, no conscious possession is proved. He has submitted that there is a blatant violation of mandatory provisions of Section 50 of NDPS Act. He has submitted that even otherwise, as per the statutory provisions of NDPS Act, the contraband, i.e. the heroin, above 250 grams is commercial in nature whereas the alleged recovery effected in the present case from the petitioner is 258 grams of heroin, which is marginally above the commercial quantity. He has submitted that the petitioner is behind bars since 02.03.2025, however, there is no material progress in the trial. He has submitted that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. *Per contra*, learned counsel for the State has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that the alleged recovery of 258 grams of heroin has been effected from the petitioner and thus, he was arrested on the spot. He has submitted that the recovery effected from the petitioner falls under the category of commercial quantity, and, thus, the provisions of Section 37 of NDPS Act are attracted. He has submitted that the petitioner is involved in other cases as well. He, on instructions, has submitted that out of total 13 prosecution witnesses, only 02 witnesses have been examined so far. He has produced custody certificate of the petitioner today in the Court, which is taken on record.



5. Heard.

6. On hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner in the present case was arrested on the spot on 02.03.2025. The alleged recovery of 258 grams of heroin has been effected from the public place. The quantity above 250 grams of heroin is of commercial in nature, whereas in the present case recovery attributed is 258 grams of heroin. The violation of mandatory provisions of Section 50 of NDPS Act is there as submitted by learned counsel for the petitioner. Custody certificate produced would show that the petitioner has suffered an incarceration of 01 year, 01 month and 20 days as on 03.05.2026. It further reflects that the petitioner is involved in 03 other cases, however, in 01 case, he is on bail. Out of total 13 prosecution witnesses, only 02 witnesses have 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

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. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned

counsel for the petitioner succeeds in making out a case for the grant of bail.

10. 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. However, if the petitioner does not furnish the bail bonds within seven days from today, then his further custody period after one week will not be counted in this case.

11. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

04.05.2026

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(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No