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

**CRM-M No.15707 of 2026
Date of Decision:04.05.2026**

Gutheerath Singh @ Babbu @ Gurtheer

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Karandeep Singh Sidhu, Advocate
for the petitioner.

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

RAJESH BHARDWAJ, J. (ORAL)

1. Present second petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.34, dated 06.03.2025, under Section 18(C) of NDPS Act (Section 29 of NDPS Act added later on vide report No.34 dated 06.03.2025), registered at Police Station Sadar Faridkot, District Faridkot.

2. Succinctly, the facts of the case are that the police party was on patrolling on 06.03.2025 and when they reached near the link road of village Bhana, they saw one young man, who was holding a khaki coloured bag in his right hand, coming on foot near the Crown Palace. On seeing the police, he got perplexed and tried to walk faster, however, on suspicion, he was apprehended by the police party. On asking, he disclosed



his name to be Gurtheerath Singh @ Babbu. He was suspected to be carrying some contraband in the khaki coloured bag being carried by him and thus, search of the same was conducted. On conducting the search of the bag, 2 Kgs 560 grams of Opium 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 receipt of the FSL report, the challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Faridkot 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, Faridkot declined the bail application filed by the petitioner vide order dated 18.08.2025. Being aggrieved, the petitioner earlier approached this Court by way of filing CRM-M-53199-2025 praying for the grant of regular bail, however the same was dismissed as withdrawn vide order dated 02.12.2025. 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 of 2 Kgs 560 grams of Opium has been effected from the public place, where the petitioner was said to be coming on foot, however, no independent witness has been joined. He has further submitted that the recovery has been effected from the bag allegedly being



carried by the petitioner and thus, conscious possession is also not proved. He has submitted that there is a blatant violation of mandatory provisions of Section 50 of NDPS Act. He has submitted that the contraband weighing 2 Kgs 500 grams of Opium is commercial in nature whereas in the present case, the alleged recovery has been effected is 2 Kgs 560 grams of Opium, which is marginally above the commercial quantity. He has submitted that the petitioner is behind bars since 06.03.2025. To buttress his arguments, learned counsel for the petitioner has submitted that though the petitioner is involved in one more case, however, he is on bail in that case. 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 recovery of 2 Kgs 560 grams of opium 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, on instructions, has submitted that out of total 19 prosecution witnesses, 06 witnesses have been examined and 13 witnesses remain to be examined. 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 was arrested in the present case



on 06.03.2025. The alleged recovery of 2 Kgs 560 grams of opium has been effected from the public place. The violation of mandatory provisions of Section 50 of NDPS Act is there as contended by learned counsel for the petitioner. The quantity above 2 Kgs 500 grams of opium is commercial in nature, whereas in the present case the alleged recovery is 2 Kgs 560 grams of opium. Custody certificate produced would show that the petitioner has suffered an incarceration of 01 year, 01 month and 26 days as on 03.05.2026. It further reflects that the petitioner is involved in 01 more case, however, he is on bail in that case. Out of total 19 prosecution witnesses, 06 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.

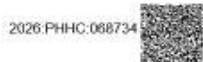
22. xxxxx

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.

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

04.05.2026	(RAJESH BHARDWAJ)
<i>rittu</i>	JUDGE
Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No