



CRM-M-34015-2025 and CRM-M-34942-2025

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

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CRM-M-34015-2025

Date of decision: 18.02.2026

SANJAY @ SANJAY KUMAR

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

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CRM-M-34942-2025

MUKESH KUMAR

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Raman Chawla, Advocate
for the petitioner in CRM-M-34015-2025.

Mr. Sourabh Singla, Advocate
for the petitioner in CRM-M-34942-2025.

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

1. In the above mentioned petitions common question of law and facts are involved, so both the petitions are being disposed of by a common judgment. For brevity, facts are being taken from CRM-M-34015-2025 titled as "*Sanjay @ Sanjay Kumar Versus State of Haryana.*"

2. Petitioner(s) have approached by way of filing the present petition praying for grant of regular bail in case bearing FIR No.506 dated 08.08.2024 under Sections 15(C), 27-A, 29-61-85 of NDPS Act, 1985, registered at Police Station Azad Nagar, District Hisar.

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secret information to the effect that Sanjay @ Sanjay Kumar (petitioner in CRM-M-34015-2025) and Mukesh Kumar (petitioner in CRM-M-34942-2025) were involved in smuggling of Chhilka Doda Post. It was informed that they would come in their car bearing registration No.HR-12AG-4057 from Rajasthan to Haryana. If the barricading is laid, they could be arrested along with the contraband. On receiving the secret information, police party laid the barricading, the car resembling to as disclosed in the secret information was seeing coming, and the same was stopped. On asking, the driver of the car disclosed his name to be Mukesh Kumar and the person who was sitting in the conductor seat disclosed his name to be Sanjay @ Sanjay Kumar. They were suspected to be carrying some contraband and thus, search of the car was made. On conducting the search of the car, five bags were recovered from the rear seat. Upon search and weighing 16 kg of Chhilka Doda Post was recovered from each bag. In total, 80 kg of Chhilka Doda Post was recovered. They failed to produce any licence regarding possession of the same and thus, they were arrested on spot. On registration of FIR, investigation commenced. The samples taken were sent to the FSL. On receipt of FSL report, challan was presented and on framing of charges, the trial commenced. The petitioner(s) approached the learned Additional Sessions Judge, Hisar praying for grant of bail, however, finding no merit, their applications were declined after hearing both the sides by Additional Sessions Judge, Hisar vide orders dated 24.03.2025 and 03.06.2025, respectively. Aggrieved by the same, petitioner(s) are before this Court by way of filing of present petitions for grant of bail.

4. Learned counsels for the petitioner(s) have vehemently contended that the petitioner(s) have been falsely implicated in the present case. They submit

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violation of provisions of Section 42 of NDPS Act. They further submit that alleged recovery has been effected from the public place, however, no independent witness has been joined, thus, there is a violation of provisions of Section 50 of the NDPS Act as well. They submit that the petitioner(s) are behind bars since 08.08.2024 and they are not involved in any other case. They further submit that in the facts and circumstances, the petitioner(s) deserve to be granted regular bail.

5. Separate status reports by way of affidavit of Kamaljeet Singh, HPS, Deputy Superintendent of Police, H.Q., Hisar on behalf of the respondent-State in both the cases already filed in the Registry are received and taken on record.

6. Per contra, learned State counsel has opposed the submissions made by the counsels for the petitioner(s) and submits that both were specifically named in the secret information and the total recovery effected from the bags are 80 kg of Chhilka Doda Post, which falls within the category of commercial quantity. Thus, the rigours of Section 37 of the NDPS Act are attracted in the present case. He, on instructions, submits that challan has been presented and charges are yet to be framed.

7. Heard.

8. On hearing learned counsels for the parties and perusing the record, it is deciphered that the case of the prosecution is based on the secret information. The alleged recovery was effected from public place. The recovery is 80 kg of Chhilka Doda Post and is above the commercial quantity. Only challan has been presented so far. Custody certificate produced would show that the petitioner has completed incarceration of 01 year, 06 months and 06 days as on 17.02.2026 and they are not involved in any other case.



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,*

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are taken up and concluded speedily.

10. The veracity of the allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court.

11. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view, this Court is of the opinion that learned counsels for the petitioner(s) succeed in making out a case for grant of regular bail to the petitioner(s). 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.

18.02.2026
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(RAJESH BHARDWAJ)
JUDGE

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