

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

2026:PHHC:030236



(120)

CRM-M-36057-2025

Date of Decision: 25.02.2026

Pargat Singh

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Sukhmeet Singh, Advocate for petitioner.

Ms. Ramta Chowdhary, DAG, Punjab.

RAJESH BHARDWAJ.J (Oral)

1. This is the first petition filed for the grant of regular bail to the petitioner in case FIR No.212, dated 23.09.2024, under Section 18(b), 61, 85 of NDPS Act, registered at Police Station Kotkapura, District Faridkot.
2. Succinctly, the facts of the case are that the police party while patrolling on 23.09.2024, when reached near Brar Tile Factory, then on the roadside, they found one Ghora Tralla (truck) bearing No.PB-04-AG-7786 and ahead of the same one Verna car silver colour bearing no. DL-1CQ-0664 was also seen and two clean shaven persons were seen sitting in the truck. On seeing the police, the driver of the truck and person sitting on conductor seat, tried to escape after alighting the truck, however, both were apprehended by the police party on suspicion. On asking, the driver of the truck disclosed his name as Pargat Singh (petitioner), whereas the person sitting on the conductor seat disclosed his name as Kamalpreet Singh @ Babbu. They were suspected to be carrying some contraband and thus on giving the offer, the truck as well as the Verna car were searched. On

conducting the search of truck, one transparent polythene envelope was found under the clothes on the rear seat of the truck. The same was found containing opium and on weighing, it was found to be containing 4.74 kgs of opium. They failed to produce any license or permit. Thus, the FIR was registered. Both the persons were arrested on the spot. The investigation commenced and the samples taken were sent to F.S.L. On completion of investigation challan was presented, charges were framed and trial commenced. The petitioner approached the learned Judge, Special Court, Faridkot for grant of bail, however, the same was declined vide order dated 03.04.2025. Aggrieved, the petitioner has filed the present petition praying for grant of regular bail.

3. Learned counsel for petitioner has contended that petitioner has been falsely implicated in the present case. It is submitted that the alleged recovery is from a public place, however, no independent witness had been joined. It is submitted that there is violation of mandatory provision of Section 50 of NDPS Act and the conscious possession itself is not proved. To buttress the arguments, it is submitted that the petitioner has no criminal antecedents as he is not involved in any other case. It is submitted that the petitioner is behind bars for the last about 1 ½ years, however, there is no material progress in the trial and therefore, petitioner deserves to be granted the benefit of bail.

4. Learned State Counsel has vehemently opposed the submissions made by learned counsel for the petitioner. He submits that the petitioner was the driver of the truck from which alleged recovery of 4.74 kgs of opium has been effected. He was arrested on the spot and the recovered contraband falls within the commercial quantity and thus,

provisions of Section 37 of NDPS Act are attracted. On instructions, it is submitted that out of total 32 prosecution witnesses only 08 witnesses have been examined so far. Learned State counsel has produced on record the custody certificate of the petitioner, which is taken on record.

5. 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 above said 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.

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21it 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 me, the injustice wrecked on the individual is immeasurable.

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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.”

6. After hearing learned counsel for the parties, it is deciphered that petitioner was arrested in the present case on 23.09.2024. The recovery of 4.74 kgs of opium is from a truck which was found parked in a public place. As per custody certificate, petitioner has undergone actual custody period of 01 year, 04 months and 28 days as on 24.02.2026. Custody certificate further reveals that petitioner has no criminal antecedents as he is not shown to be involved in any other case. As informed by learned State counsel out of total 32 prosecution witnesses only 08 have been examined so far. Thus, the trial would take sufficiently long time to conclude.

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. This Court would refrain itself from commencing anything on the merits of the case. 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 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 his 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.

25.02.2026
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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No