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

**CRM-M No.42148 of 2025
Date of Decision: 17.03.2026**

Harpreet Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

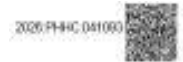
Present: Mr. Kartik Sharma, Advocate for
Mr. Vishal Sharma, Advocate
for the petitioner.

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.151, dated 07.07.2023, under Section 22 of NDPS Act, registered at Police Station Mahilpur, District Hoshiarpur, Punjab.

2. Succinctly, the facts of the case are that the police party was on patrolling on 07.07.2023 and when they reached near the village Langari road, they saw two young persons coming on splendor motorcycle towards Mahilpur. However, on suspicion, they were signalled to stop. On asking, driver of the motorcycle disclosed his name to be Harpreet Singh (petitioner), whereas the person sitting pillion disclosed his name to be Hardeep Singh. They were suspected to be carrying some contraband and, thus, their search was conducted. On conducting the search of Harpreet



Singh (petitioner), one polythene bag was recovered from the right pocket of his pant and further, on conducting of the search of bag, 18 Buprenorphine Injections IP 0.3 mg/2 ml without any label were recovered, whereas from the search of Hardeep Singh, one polythene bag was recovered from the left pocket of his trouser and further on conducting the search of bag, 16 Buprenorphine Injections IP 0.3 mg/2 ml without any label were recovered. They failed to produce any licence regarding the conscious possession of the same and thus, the FIR was registered and both were 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, Hoshiarpur praying for the grant of interim regular bail. He was granted the concession of interim bail vide order dated 11.09.2023 by the learned trial Court to await the report of FSL. However, on receipt of the FSL report, the learned trial Court has observed that the contraband recovered in the present case falls under the category of commercial quantity, hence, his interim bail dated 11.09.2023 was cancelled vide order dated 28.11.2024 and the petitioner was taken into custody. Thereafter, the petitioner again approached the Court of learned Judge, Special Court, Hoshiarpur, 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, Hoshiarpur declined the bail application filed by the petitioner vide order dated 11.06.2025. Being aggrieved, the petitioner earlier approached this Court praying for the grant of regular bail by way of

filing CRM-M-7204-2025, however the same was dismissed as withdrawn vide order dated 23.05.2025. 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 effected is from the public place but no independent witness was joined. He has submitted that the alleged recovery effected in the present case is from the personal search of the petitioner, however, there is a violation of mandatory provisions of Section 50 of NDPS Act. He has submitted that the petitioner is behind bars from last more than 1 year, however, there is no material progress in the trial. To buttress his arguments, learned counsel for the petitioner has submitted that the petitioner has no criminal antecedents as he has never been involved in any other 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 from the personal search of the petitioner, 18 Buprenorphine injections weighing 35.89 grams were recovered, which is commercial in nature, and, thus, the provisions of Section 37 of NDPS Act are attracted. He, on instructions, has submitted that out of total 12 prosecution witnesses, 05 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 is behind bars since the date of his arrest. The alleged recovery effected in the present case is from the public place. As contended before this Court by learned counsel for the petitioner, the recovery has been effected from the personal search of the petitioner, however, there is a violation of mandatory provisions of Section 50 of NPDS Act. Custody certificate produced would show that the petitioner has suffered an incarceration of 01 year, 05 months and 21 days as on 16.03.2026. It further reflects that the petitioner is not involved in any other case. Out of total 12 prosecution witnesses, 05 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.

17.03.2026

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Whether speaking/reasoned
Whether reportable

(RAJESH BHARDWAJ)

JUDGE

Yes/No
Yes/No