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

**CRM-M No.48889 of 2025
Date of Decision: 30.03.2026**

Ishar Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ankush Sihag, Advocate and
Mr. Sahil Chaudhary, 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.144, dated 02.07.2024, under Sections 21, 29, 27(A) of NDPS Act and Sections 25, 27 of Arms Act, registered at Police Station Jamalpur, District Ludhiana, Punjab.

2. Succinctly, the facts of the case are that the police party while on patrolling on 02.07.2024, received a secret information to the effect that Ishar Singh, i.e. the petitioner, Rajvir Singh @ Kajama and Rajveer Singh, were involved in the illegal business of smuggling of heroin by sharing money for a long time and they divide the profit by selling heroin amongst themselves. It was informed that they also kept illegal arms and ammunition and they would be going on foot from the house of Rajveer

Singh from village Khasi Kalan Ludhiana to supply the heroin to their customers and in case of raid at the house of Rajveer Singh, they could be apprehended along with the contraband as well as arms and ammunition. On receiving the secret information, the raiding party was constituted and reached the place as disclosed in the secret information. The persons, as disclosed in the secret information, were found present at the house of Rajveer Singh. On seeing the police party, they got perplexed and tried to escape, however, all of them were apprehended. On asking, they disclosed their names to be Ishar Singh, i.e. the petitioner, Rajvir Singh @ Kajama and Rajveer Singh. They were suspected to be carrying some contraband and thus, the search was conducted. On conducting the search, 300 grams of heroin, revolver and live cartridges and drug money of Rs.1,97,000/- along with electronic weighing scale and 50 empty polythene pouches were recovered. They failed to produce any licence regarding the conscious possession of the same, thus, the FIR was registered and all 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, Ludhiana 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, Ludhiana declined the bail application filed by the petitioner vide order dated 11.11.2024. Being aggrieved, the petitioner earlier approached this Court praying for the grant of regular bail by way of filing CRM-M-2664-2025, however the same was dismissed vide order dated 19.05.2025. 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 case of the prosecution is based on the secret information, however, there is a violation of mandatory provisions of Section 42 of NDPS Act. He has submitted that the recovery is to be effected from the public place, however, no independent witness has been joined. He has submitted that there is a violation of mandatory provisions of Section 50 of NDPS Act as well in conducting the search and the conscious possession is not even proved. He has submitted that in the alleged secret information, 03 accused were mentioned, however, rest of two accused are already on bail. He has submitted that the petitioner is behind bars from last more than 1½ years and the material witnesses already stand examined. He has submitted that though the petitioner is involved in 04 other cases, however, in 02 of the cases, he has been acquitted and in 02 cases, he is on bail. 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 petitioner was specifically named in the secret information. He has submitted that on seeing the police, the petitioner threw a kit bag, which he was carrying, and from the search of the same, 300 grams of heroin has been recovered, which is a commercial quantity

and thus, the provisions of Section 37 of NDPS Act are attracted. He has submitted that from the co-accused, drug money of Rs.1,97,000/-, 50 empty plastic pouches and one revolver with 10 live cartridges were recovered. He has submitted that co-accused are already on bail. He, on instructions, has submitted that out of total 14 prosecution witnesses, 04 witnesses remain to be examined. He has submitted that the petitioner is also involved in 04 other cases. 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 case of the prosecution is based on the secret information. The alleged recovery is effected from the public place. The recovery effected is from the kit bag allegedly having been thrown by the petitioner. As contended before this Court by learned counsel for the petitioner that there is a violation of mandatory provisions of Sections 42 & 50 of NDPS Act. The co-accused are already on bail. The quantity above 250 grams of heroin is commercial in nature and the recovery effected in the present case is 300 grams of heroin. The material witnesses already stand examined. Custody certificate produced would show that the petitioner has suffered an incarceration of 01 year and 08 months and 23 days as on 29.03.2026. It further reflects that though the petitioner is involved in 04 other case, however, in 02 of the cases, he is on bail and in 02 cases, he has been acquitted.

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.

30.03.2026			(RAJESH BHARDWAJ)
<i>rittu</i>	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No