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

**CRM-M No.57637 of 2025
Date of Decision: 03.02.2026**

Sukhwinder Singh @ Sukha**.....Petitioner**

Versus

State of Punjab**.....Respondent****CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Rituraj Singh, Advocate
for the petitioner.

Mr. K. D. Sachdeva, DAG, Punjab

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.0069, dated 20.06.2023, under Sections 21(C)/29/61/85 of NDPS Act, 1985, registered at Police Station Valtoha, District Tarn Taran. Further prayer has been made for granting interim bail to the petitioner during the pendency of the present petition.

2. Succinctly, the facts of the case are that the police party, while on patrolling on 20.06.2023, saw a person coming from the front side, who was carrying a heavy polythene in his right hand. On seeing the police, he got perplexed and threw the heavy polythene on the road. On suspicion, he was apprehended and on asking, he disclosed his name Sukhwinder Singh @ Sukha. He was suspected to be carrying some contraband in the polythene, which was thrown by him. However, the same was searched and on conducting the search, 500 grams of heroin was recovered from the polythene



bag. He failed to produce any licence regarding the conscious possession of the same. Hence, the FIR was registered and he was arrested on the spot. On registration of the FIR, the investigation commenced. On completion of the investigation, the challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Additional Sessions Judge, Tarn Taran praying for the grant of regular bail. However, after hearing both the sides and finding no merit in the same, the learned Additional Sessions Judge, Tarn Taran, dismissed the bail application filed by the petitioner vide order dated 25.11.2024. Hence being aggrieved, the petitioner has approached this Court praying for the grant of bail by way of filing the present petition.

3. It has been contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He has submitted that the co-accused, namely, Kuljit Kaur @ Kuldeep Kaur has already been granted bail by this Court vide order dated 23.07.2025 passed in CRM-M-61323-2024. He has submitted that the petitioner is behind bars since the date of his arrest, i.e. 20.06.2023 and thus, has suffered an incarceration of more than 2½ years, however, there is no 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 the alleged recovery has been effected from the public place, however no independent witness has been joined. He has further submitted that there is a violation of mandatory provisions of Section 50 of NDPS Act. He has thus submitted that in view of the facts and circumstances, the petitioner deserves to be granted regular bail.

4. *Per contra*, learned counsel for the State has opposed the



submissions made by learned counsel for the petitioner. He has submitted that on due compliance of Section 50 of the NDPS Act, recovery of 500 grams of heroin was effected from the petitioner, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. He, on instructions has submitted that out of total 22 prosecution witnesses, only 02 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. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested on the spot, i.e. on 20.06.2023 and since then, he is behind bars. The alleged recovery of 500 grams of heroin was effected from the petitioner, which is commercial in nature. As submitted by learned counsel for the petitioner, the petitioner has no criminal antecedents. Out of total 22 prosecution witnesses, only 02 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.

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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 time, 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.’

8. The Hon’ble Supreme Court in Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695 has held as under:

“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to

public confidence in the administration of justice.”

9. The Hon’ble Supreme Court in a recent decision dated 03.07.2024 in ‘**Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024**’, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

10. 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 commenting anything on the merits of the case. The trial of the case will take sufficient long time. Thus, keeping in view the arguments raised by both the sides, 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.

11. 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.

12. Nothing said herein shall be treated as an expression of opinion on the merits of the case. However, if the petitioner does not furnish the bail bonds within seven days from today, then his further custody period after one week will not be counted in this case.

03.02.2026

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(RAJESH BHARDWAJ)
JUDGE

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