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patrolling on 08.08.2024, received a secret information to the effect that Sammo Bai @ Soma (petitioner in CRM-M-43007-2025) and Balwinder Kaur (petitioner in CRM-M-63093-2024) were involved in selling poppy husk. It was informed that they have brought huge quantity of poppy husk and were present at Bus Stand, Fatehabad along with the contraband. In case of raid, the same could be recovered. On receiving the secret information, the raiding party reached at the place disclosed. Two persons were found sitting there, both were having two bags. On seeing police party, they got perplexed and tried to get away with their bags. However, they were apprehended. On asking, they disclosed their name to be Shammo Bai @ Soma and Balwinder Kaur. They were suspected to be carrying some contraband in the bags. Thus, the same was searched. On conducting the search, 27 kg each poppy husk were recovered from both the bags. Thus, the total recovery is 54 kg of poppy husk. They failed to produce any licence regarding the possession of the same. Thus, FIR got registered and both were arrested on the spot. On completion of the investigation, the challan was presented and on framing of charges, trial commenced. Petitioner in CRM-M-63093-2024 approached the learned Judge, Special Court, Fatehabad for grant of bail. However, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Fatehabad declined the bail application vide order dated 14.11.2024 and petitioner in CRM-M-43007-2025 approached the learned Additional Sessions Judge, Fatehabad for grant of bail. However, after hearing both the sides and finding no merit in the same, the learned Additional Sessions Judge, Fatehabad declined the bail application vide order dated 22.07.2025. Aggrieved by the same, petitioner(s) are before this Court praying for the grant of bail by way of filing the present petitions.



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4. Learned counsel for the petitioner(s) have vehemently contended that the petitioner(s) have been falsely implicated in the present case. They submit that the case of the prosecution is based on secret information, however, there is violation of provisions of Section 42 of NDPS Act. They further submit that alleged recovery has been effected from the Bus stand i.e. 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. They further submit that in the facts and circumstances, the petitioner(s) deserve to be granted regular bail.

5. Status report by way of affidavit in CRM-M-63093-2024 of Jagdish Kumar, HPS, Deputy Superintendent of Police, Fatehabad on behalf of the respondent-State already filed in the Registry is taken on record.

6. Per contra, learned State counsel has opposed the submissions made by the counsel for the petitioner(s) and submits that the petitioner(s) are habitual offenders and they are involved in other cases as well. He further submits that both were specifically named in the secret information and the total recovery effected from both the bags are 54 kg of poppy husk of heroin, 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 out of total 18 prosecution witnesses, only 01 has been examined so far.

7. Heard.

8. 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 was effected from the Bus stand i.e. public place. As per the statute the quantity above 50 kg is commercial and the alleged recovery from



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both the accused is 54 kg of poppy husk. Petitioner(s) are behind bars since 08.08.2024. Out of total 18 prosecution witnesses, only 01 has been examined so far.

9. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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,



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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.

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 counsel 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.

12. In case the bail bonds are not furnished by the petitioner(s) during the period of 07 days from today, then their further custody period after one week will not be counted in the present case.

06.02.2026
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(RAJESH BHARDWAJ)
JUDGE

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