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Mohali (for whole Punjab), District Bathinda, Punjab.

3. Succinctly, the facts of the case are that the police party was on patrolling on 12.05.2025, then, at about 06:00 P.M., they received a secret information to the effect that about 300 meters ahead, opposite SBI bank and near Hello Food Pizza Hut, a Jeep Scorpio, bearing registration No.HR-26-CN-6690 was parked. It was informed that a fair skinned youth was sitting on the driver seat and he was alleged to be involved in selling the heroin in Talwandi Sabo. It was informed that he was talking with his associates, who were standing nearby, about selling the heroin and in case of raid, they could be apprehended along with the contraband. On receiving the secret information, the raiding party was constituted and reached the place as disclosed in the secret information. The car, as disclosed in the secret information, was seen parked. On seeing the police, driver of the car got perplexed, however, he was apprehended by the police party. On asking, driver of the car disclosed his name to be Gurpiar Singh @ Bura, whereas, the persons standing nearby, disclosed their names to be Arshdeep Singh @ Arsh (petitioner in CRM-M-67076-2025) and Kamaldeep Singh @ Kamal (petitioner in CRM-M-70074-2025). They were suspected to be carrying some contraband in the car and thus, search of the car was conducted. On conducting the search of the car, a waxen white envelope was recovered from the dashboard of the car. Further on conducting the search of the envelope, 506 grams of heroin was recovered. They failed to produce any licence regarding the conscious possession of the same, thus, the FIR was registered and all the accused were 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 petitioners approached the Court of learned Judge, Special Court, Bathinda praying for the grant of bail. However, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Bathinda declined the bail applications filed by both the petitioners vide separate orders dated 19.06.2025. Being aggrieved, the petitioner, namely, Kamaldeep Singh @ Kamal earlier approached this Court praying for the grant of regular bail by way of filing CRM-M-33278-2025, however the same was dismissed as withdrawn vide order dated 04.08.2025. Hence being aggrieved, the petitioners are before this Court by way of filing the present petitions praying for the grant of regular bail.

4. Learned counsel for the petitioners have contended before this Court that the petitioners have been falsely implicated in the present case. They have submitted that admittedly the case of the prosecution is based on the secret information but there is a blatant violation of Section 42 of NDPS Act. They have submitted that even the conscious possession is not proved, however, there is a violation of mandatory provisions of Section 50 of NDPS Act as well in the present case. They have submitted that in all there are 03 accused roped in the present case by the police in a well hatched conspiracy. To buttress their arguments, learned counsel for the petitioners have submitted that the Investigating Officer, ASI Major Singh, is facing prosecution in FIR No.14, dated 21.05.2025, under Sections 7, 7-A of PC Act, registered at Police Station Vigilance Bureau, District Bathinda and the same has been registered against him for falsely implicating the petitioners and demanding the bribe from them. They have submitted that the



petitioners are behind bars since the date of their arrest, i.e. 12.05.2025. They have submitted that though the petitioner, namely, Kamaldeep Singh @ Kamal is involved in one more case, i.e. FIR No.163, dated 02.11.2024, under Sections 115(2), 126(2), 190, 191, 333, 351(2) of BNS, registered at Police Station Jhunir, however, he is on bail in that case, so far as the petitioner, namely, Arshdeep Singh @ Arsh is concerned, he is not involved in any other case. They have further submitted that the petitioners are not involved in any other case of the similar nature. They have submitted that the false implication of the petitioners is writ large and thus, in the facts and circumstances, the petitioners deserve to be granted regular bail.

5. *Per contra*, learned State counsel has vehemently opposed the submissions made by counsel for the petitioners. He has submitted that search of the car in which the petitioners were travelling has been conducted in the presence of DSP and from the dashboard of the car, 506 grams of heroin was 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 17 prosecution witnesses, only one witness has been examined so far. He has produced custody certificates of both the petitioners today in the Court, which are taken on record.

6. This Court has heard learned counsel for the parties and perused the record with their able assistance.

7. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioners were arrested on the spot on 12.05.2025. The case of the prosecution is based on the secret information. It is not under dispute that the Investigating Officer of the case is facing prosecution in FIR No.14, dated 21.05.2025, under Sections 7, 7-A of PC Act, registered at



Police Station Vigilance Bureau, District Bathinda, for the false implication of the petitioners. The matter is subjudice. This Court refrains from commenting anything regarding the merits of the case and the FIR registered against the Investigating Officer. However, keeping in view the over all facts and circumstances of the case and the fundamental rights of the petitioners as enshrined under Article 21 of the Constitution of India, this Court is inclined to grant bail to the petitioners. The recovery effected in the present case weighs 506 grams of heroin. Custody certificates produced would show that the petitioners have suffered an incarceration of 10 months and 09 days as on 23.03.2026. It further reflects that the petitioner, namely, Kamaldeep Singh @ Kamal is involved in 01 other cases, however, as submitted before this Court by learned counsel for the petitioner, he is on bail. Out of total 17 prosecution witnesses, only 01 witness has been examined so far.

8. 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

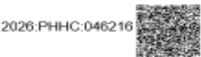
21.it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.

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.”*

9. 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. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsels for the petitioners succeed in making out a case for grant of regular bail to the petitioners.

10. Accordingly, both the petitions are allowed and all the



petitioners are ordered to be released on bail on their 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 cases.

24.03.2026

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(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No