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

CRM-M-67481-2025

Date of decision: 12.03.2026

Harish Sharma @ Hari

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Vikas Gupta, Advocate
for the petitioner.

Mr. Raj Karan Singh, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Petitioner has approached this Court by way of filing the present petition praying for grant of regular bail to them in case FIR No.242 dated 07.09.2025, under Sections 21-C, 25, 29 and 27-A (added later on) of NDPS Act, 1985, registered at Police Station ANTF, District SAS Nagar, Mohali.

2. Succinctly the facts of the case are that the police party while on patrolling on 07.09.2025, received a secret information to the effect that Gautam Soni @ Deepu, Rohit @ Mani and Yugraj Singh @ Yuvi were in contact with Pakistani Heroin smugglers and used to procure Heroin from them in huge quantities for supplying it. On that day also, they had gone on their motorcycle bearing No.PB-02-DK-8119 and Activa No.PB-02-EV-5026 for supplying the same and in case barricading is laid, they could be arrested along with the contraband. On receiving the information, the police reached the place as disclosed and the young persons were found standing there along with their motorcycle and activa. On seeing the



police, they tried to escape however, they were apprehended by the police. On suspicion, they were stopped. On asking, they disclosed their names as Gautam Soni @ Deepu, Rohit @ Mani and Yugraj Singh @ Yuvi. They were suspected to be carrying some contraband, hence, their search was conducted. On conducting the search, from the diggy of Activa of Gautam Soni @ Deepu, 02 polythene bags along with yellow tape were found and from the same, 572 grams and 522 grams of Heroin was recovered which in total is 1.094 kg. They failed to produce any license regarding possession of the same and hence, the FIR was registered and investigation commenced. However, during investigation, on the basis of disclosure statement of co-accused Gautam Soni, Harish Sharma @ Hari (petitioner) has been arrayed as accused in the present case and thus, was arrested on 08.09.2025. On completion of the investigation, challan was presented and on framing of charges, trial commenced. The petitioner approached the Court of learned Judge, Special Court, Amritsar praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides vide order dated 06.11.2025. Aggrieved by the same, the petitioner is before this Court by way of filing of present petition for grant of bail.

3. It has been submitted by learned counsel for the petitioner that petitioner has been falsely and frivolously implicated in the present case. He has submitted that the alleged recovery of 1.094 kg of Heroin has been effected from the co-accused namely, Gautam Soni @ Deepu. He has submitted that the petitioner has been arrayed as an accused on the basis of disclosure statement of co-accused, namely, Gautam Soni @ Deepu, which in itself is not an admissible evidence. He has submitted that the



allegations made by the co-accused in the disclosure statement are without any basis. He has further submitted that the prosecution has failed to substantiate the disclosure statement made *qua* the petitioner. He has also submitted that the similarly situated co-accused namely, Harminder Singh @ Harry, who was also arrayed as an accused for the same offence, has been granted interim anticipatory bail by the Coordinate Bench of this Court vide order dated 28.10.2025. To buttress his arguments, learned counsel has submitted that though the petitioner is involved in one more case, however, he is on bail in the same and thus, he deserves to be granted regular bail.

4. Learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that the recovery effected in the present case is 1.094 kg of Heroin which is commercial in nature and thus, provisions of Section 37 of the NDPS Act are attracted in this case. He has submitted that the complicity of the petitioner is established during investigation. On instructions, he has submitted that the investigation is complete. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the recovery of 1.094 kg of Heroin was effected from co-accused, namely, Gautam Soni @ Deepu, however, on the basis of his disclosure statement, petitioner-Harish Sharma @ Hari was arrayed as an accused. As submitted, similarly situated co-accused, namely, Harminder Singh @ Harry, has been granted interim anticipatory bail by the Coordinate Bench of this Court vide order dated 28.10.2025. Custody certificate filed by the State would show that the petitioner has undergone



incarceration of 06 months as on 11.03.2026. It further reflects that the petitioner is involved in one more case. As submitted, the investigation is complete.

6. 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 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.'

7. 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. The trial of the case will take sufficiently long time. However, keeping in view the overall facts and circumstances of the present case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

8. 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 the present case.

12.03.2026
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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