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

CRM-M No.73880 of 2025

Date of Decision: 11.03.2026

Rahul Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. K. D. Sachdeva, DAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Present third petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.99, dated 26.06.2024, under Sections 21-C/25/29 of NDPS Act, registered at Police Station Special Task Force, District SAS Nagar, Mohali.

2. Succinctly, the facts of the case are that the police party was sitting in Office of Special Task Force Border Range, Amritsar on 26.06.2024, received a secret information to the effect that Rahul Kumar and Harsh Arora were involved in smuggling of heroin on a very large scale. It was informed that they were going on their Mahindra Centuro motorcycle bearing No.PB02-CF-3329 to supply the contraband towards Jora Fatak near Ram Talai turn and in case of barricading, they could be



apprehended along with the contraband. On receiving the secret information, the barricading was laid at the place as disclosed in the secret information. In the meantime, the motorcycle, as disclosed in the secret information was seen coming and on suspicion, the same was signalled to stop. On asking, driver of the motorcycle disclosed his name to be Rahul Kumar (petitioner) and the person riding pillion, disclosed his name to be Harsh Arora. They were suspected to be carrying some contraband and thus, their search was conducted. On conducting the search of Harsh Arora, a black heavy packet, wrapped in yellow cloth was recovered from his T-shirt and on conducting the search of the packet, 500 grams of heroin was recovered. They failed to produce any licence regarding the conscious possession of the same, thus, the FIR was registered and both 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. The petitioner approached the Court of learned Judge, Special Court, Amritsar 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, Amritsar declined the bail application filed by the petitioner vide order dated 12.11.2024. Being aggrieved, the petitioner earlier approached this Court twice praying for the grant of regular bail by way of CRM-M-62954-2024 and CRM-M-42020-2025, however the same were declined vide orders dated 19.12.2024 and 24.09.2025, respectively. Hence being aggrieved, the petitioner is again before this Court praying for the grant of regular bail by way of filing the present third petition.



3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. He has submitted that admittedly the case 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 alleged recovery effected in the present case from the public place, however, no independent witness was joined. He has submitted that the petitioner was allegedly driving the motorcycle whereas the recovery of 500 grams of heroin has been effected from the co-accused, namely, Harsh Arora, who was pillion rider. He has submitted that the recovery effected in the present case from the personal search of co-accused, namely, Harsh Arora, but there is a violation of mandatory provisions of Section 50 of NDPS Act. He has submitted that the petitioner is behind bars from last more than 1½ years, however, there is no material progress in the trial. He has further submitted that though the petitioner is involved in 02 other cases and out of which, one is under the NDPS Act, however, he is on bail in both the cases. 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 and the co-accused were specifically named in the secret information and both were arrested on the spot along with the contraband. He has submitted that on the personal search of the pillion rider, i.e. co-accused, Harsh Arora, 500 grams of heroin was recovered, which is a commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. He has submitted that the petitioner is a habitual



offender, who is involved in 02 other cases. He, on instructions, has submitted that out of total 14 prosecution witnesses, 05 witnesses have been examined till date. 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 admittedly the case is based on the secret information. The alleged recovery effected in the present case in a public place. It has been contended before this Court by learned counsel for the petitioner that no independent witness was joined during the recovery period. The petitioner was arrested on the spot and since then, he is behind bars. Custody certificate produced would show that the petitioner has suffered an incarceration of 01 year, 08 months and 09 days as on 10.03.2026. Out of total 14 prosecution witnesses, 05 witnesses have been examined so far. As submitted before this Court by learned counsel for the petitioner, the petitioner is involved in 02 other cases, however, he is on bail in both the cases.

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.

11.03.2026
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Whether speaking/reasoned

Whether reportable

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Yes/No

Yes/No

(RAJESH BHARDWAJ)

JUDGE