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

**CRM-M No.73939 of 2025
Date of Decision: 14.01.2026**

Rajpal Kaur**..... Petitioner****Versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Kamil Nagpal, Advocate and
Mr. Rajat Mehmi, Advocate
for the petitioner.

Mr. Raj Karan Singh, Asstt. A.G., 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.188, dated 06.12.2024, under Sections 21 of NDPS Act (Section 29 of NDPS Act added later on), registered at Police Station City Special Task Force, District Phase-4, Mohali.

2. Succinctly the facts of the case are that the police party, while on patrolling on 06.12.2024, received a secret information to the effect that Rajpal Kaur was involved in selling of heroin and she was standing on the road going from village Kot Karor Khurd, P.S. Talwandi Bhai, District Ferozepur to village Darapur, Bathinda for supplying the heroin to her customers and in case of raid, she 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 woman, as resembled in the secret information was seen standing. She was carrying a bag with her. On asking, she disclosed her name to be Rajpal Kaur. She was suspected to be carrying some contraband in the bag being carried by her and thus, the same was searched. On conducting the search of the bag, 265 grams of heroin was recovered. She failed to produce any licence regarding the conscious possession of the same, thus, the FIR was registered and she was arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On completion of the investigation, the challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Ferozepur praying for the grant of bail, however after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Ferozepur declined the bail application filed by the petitioner vide order dated 23.01.2025. Being aggrieved, the petitioner earlier approached this Court twice praying for the grant of bail by way of filing CRM-M-16493-2025 and CRM-M-33712-2025, however the same were dismissed vide orders dated 12.05.2025 and 07.07.2025, respectively. Hence being aggrieved, the petitioner is again before this Court by way of filing the present third petition praying for the grant of regular bail.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. He has submitted that the alleged recovery effected in the present case from the public place, however no independent witness has been joined. He has submitted that the case of prosecution is based on the secret information



but there is a violation of mandatory provisions of Section 42 of NDPS Act. He has submitted that there is a violation of mandatory provisions of Section 50 of NDPS act as well in conducting the search. He has submitted that the quantity above 250 grams of heroin is commercial in nature whereas the alleged recovery effected from the petitioner is 265 grams of heroin only. To buttress his arguments, learned counsel for the petitioner has submitted that the petitioner has no criminal antecedents as she has never been involved in any other case. She has submitted that the petitioner is behind bars since 06.12.2024, however there is no progress in the trial. He has submitted that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Learned counsel for the State has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner was specifically named in the secret information. He has submitted that the contraband recovered in the present case weighing 265 Grams of Heroin, which is commercial in nature and thus, the provisions of Section 37 NDPS Act are attracted. He, on instructions, has submitted that only the charges have been framed and out of total 18 prosecution witnesses, no witness has been examined so far. 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 the case of prosecution is based on the secret information. The alleged recovery in the present case is of 265 grams of Heroin, which is marginally above the commercial quantity. The petitioner



is behind bars since 06.12.2024. Custody certificate produced would show that the petitioner has suffered an incarceration of 01 year, 01 month and 07 days as on 13.01.2026. It further reflects that the petitioner is not involved in any other case. Charges have been framed and out of 18 prosecution witnesses, no witness has been examined.

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 her 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.

(RAJESH BHARDWAJ)
JUDGE

14.01.2026

<i>rittu</i>	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No