



CRM-M-18540-2025

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**228 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-18540-2025**

Date of Decision: 25.08.2025

Nirmal Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rishu Mahajan, for the petitioner.

Ms. Simran Gorla, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached by way of filing the present petition praying for grant of regular bail in case FIR No.103 dated 21.08.2021 under Sections 18/21/25/29 of NDPS, 1985, Section 3/34/20 of Indian Passport Act, 1920, Section 14 of the Foreign Act, 1946 and Section 473 IPC, registered at Police Station Ramdas, District Amritsar.

2. Succinctly, facts of the case are that on 21.08.2021, the police party while on patrolling, received a secret information to the effect that Nirmal Singh @ Sonu (petitioner) is roaming in the border area with some of his friends on his Activa Scooter. It was informed that he has connections with Pakistani smugglers and he smuggles heroin from across the border. In case of barricading, he and his friends could be arrested alongwith a huge consignment of heroin. On receiving the secret information, raiding team was constituted and the police alongwith BSF, raided the area. On firing by the BSF, the accused escaped, however, on search of the area, 39 packets of heroin net weighing 40.810 kgs and one packet of opium weighing 190 grams, were recovered. On the registration of the FIR, the investigation commenced. Samples taken were sent the FSL. During the investigation, one Harpreet Singh was arrested and on his disclosure statement, the petitioner



and other co-accused were arrayed as accused in the present case. Resultantly, the petitioner was arrested on 22.07.2022. On receipt of the FSL report, 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 regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 01.03.2024. Hence, the petitioner has approached this Court praying for grant of regular bail by way of filing the present petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He submits that as evident from the case of the prosecution, the FIR was registered on the basis of secret information, however, there is violation of Section 42 of the NDPS Act. He submits that no recovery has been effected from the petitioner as admittedly, the alleged recovery has been effected from an open place. He submits that the petitioner has been implicated on the basis of disclosure statement of co-accused Harpreet Singh. However, to buttress his arguments, he submits that co-accused Harpreet Singh @ Happy and Ranjit Singh have already been granted bail by this Court vide orders dated 19.05.2025 and 31.07.2025, respectively. He submits that the petitioner is behind bars from the last more than three years, however, there is no material progress in the trial and thus, fundamental right of the petitioner of speedy trial has been miserably defeated. He submits that the petitioner has been falsely implicated in four other cases on the basis of disclosure statement of the co-accused, however, he is on bail in those cases.



He, thus, submits that in the facts and circumstances of the present case, he deserves to be granted regular bail.

4. Short reply by way of affidavit of Gurwinder Singh, PPS, Deputy Superintendent of Police, Sub Division Ajnala, Amritsar (Rural) dated 24.08.2025, filed in Court is taken on record.

5. *Per contra*, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. She has submitted that the petitioner was specifically named in the secret information and thus, it would be wrong to say that he has been arrayed in the present case on the basis of disclosure statement of co-accused. She submits that recovery effected in the present case is 40.810 kgs of heroin, which is a commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted, however, recovery of 190 grams of opium falls under the non-commercial quantity. She has submitted that the petitioner is a habitual offender, as he is involved in four other cases. On instructions, she has submitted that out of 30 prosecution witnesses, 06 witnesses have been examined so far. She has placed on record the custody certificate of the petitioner.

6. After hearing counsel for the parties and perusing the record, it is deciphered that the FIR in the present case was registered on the basis of secret information. The petitioner was not arrested on spot and recovery of contraband effected from an open place. The petitioner was arrested on the basis of the disclosure statement of co-accused Harpreet Singh. However, as submitted before this Court co-accused Harpreet Singh and Ranjit Singh are on bail. As submitted before this Court, 30 witnesses have been examined out of 06 prosecution witnesses. The custody certificate would show that the



petitioner has suffered incarceration of 03 years, 01 month & 01 day as on 23.08.2025. It further shows that the petitioner is involved in four other 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.
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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.'

8. The trial of the case is likely to take sufficient time. Speedy trial is the right of every accused. The Hon'ble Supreme Court in **Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695** has held as under:

“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.”

9. The Hon'ble Supreme Court in a recent decision dated 03.07.2024 in **Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024**, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India. Though the petitioner is involved in four other cases, however, the same cannot be a ground for non-consideration of his bail.

10. 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 counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

11. 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.

12. It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.

13. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

25.08.2025

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Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No

(RAJESH BHARDWAJ)
JUDGE