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

1. **CRM-M-12150-2025**

Sarbjit Singh @ SarbaPetitioner

versus

State of Punjab Respondent

2. **CRM-M-10359-2025**

Amardeep SinghPetitioner

versus

State of Punjab Respondent

Date of decision : 07.05.2025

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Abhaysher Singh, Advocate
for the petitioners.

Mr. J.S. Arora, D.A.G., Punjab assisted by SI Raj Singh.

RAJESH BHARDWAJ, J. (Oral)

1. By way of this common order, I intend to dispose of abovesaid two petitions as they have arisen out of the same FIR.

2. Petitioners have approached this Court by way of present petitions praying for granting them regular bail in case FIR No.39 dated 30.06.2023, under Section 15 of NDPS Act (Sections 25/29 of NDPS Act added later on) registered at Police Station Ajitwal, District Moga.

3. Succinctly the facts of the case are that on 30.06.2023, the police party while on patrolling received a secret information to the effect that Sarbjit Singh @ Sarba (petitioner), Sandeep Singh @ Sonu, Balbir Singh @ Sonu, Amro Bai wife of not known, Jit Kaur @ Jeeto wife of not



known, were involved in selling of poppy husk and selling the same in the neighbouring villages. It was informed that all of them were coming from the side of Jalalabad in Bolero Caper bearing number PB 13AF 4564 for selling the poppy husk and if nakabandi is done, then they could be arrested along with contraband. On receiving the secret information, the raiding team was constituted and the barricading was laid by the police party at the place disclosed. Thereafter, the police party spotted the vehicle as disclosed and the same was stopped. The persons travelling in the same disclosed their names as Sarbjit Singh @ Sarba, Sandeep Singh @ Sonu and Balbir Singh @ Sonu. They were suspected to be carrying some contraband in the vehicle and search of the vehicle was conducted, wherein 01 quintal of poppy husk was recovered. They failed to produce any licence for the possession of the contraband and thus, the FIR was registered and on registration of FIR, investigation commenced. During investigation, on the disclosure of Sarbjit @ Sarba (petitioner), his house was also raided from where 04 quintal of poppy husk was recovered i.e. 02 quintal from the 03 vehicles parked there and another 02 quintal from the basement of the house of Sarbjit @ Sarba. Thus, in total 05 quintal of contraband poppy husk was recovered. Samples taken were sent to the FSL. On receiving the FSL report, challan was presented and the learned trial Court on framing the charges proceeded with the trial. During investigation, the owner of the vehicle was found to be Amardeep Singh (petitioner) and thus, he was also arrayed as an accused for the offence under Section 25 of NDPS Act. Petitioner Sarbjit Singh @ Sarba was arrested on 30.06.2023 and petitioner-Amardeep Singh was arrested on 30.06.2024. They approached the Court of Ld. Judge, Special Court, Moga for grant of bail, however, after hearing both the sides and finding



no merits, their applications were declined by the trial Courts vide orders dated 01.10.2024 and 30.10.2024, respectively. Aggrieved by the same, the petitioners are before this Court by way of filing the present petitions.

4. It has been vehemently contended by learned counsel for the petitioners that the petitioners are falsely implicated in the present case. It is submitted that though the FIR was registered on the basis of a secret information but there is violation of mandatory provisions of Section 42 of the NDPS Act. It is also submitted that the investigating agencies have not joined any independent witness whereas the alleged recovery is from a public place. It is submitted that similarly situated co-accused, namely, Sandeep @ Sonu, Amro Bai and Jeet Kaur, have already been granted bail by this Court and the petitioner-Sarbjit Singh @ Sarba is behind bars since the date of his arrest i.e. from 30.06.2023. He submits that petitioner-Amardeep Singh was not even named in the FIR, however, he was arrayed as an accused being the owner of one of the vehicle and is behind bars since the date of his arrest, i.e. 30.06.2024. He submits that Sarbjit Singh @ Sarba is falsely involved in 02 more cases under the NDPS Act and the same are of non-commercial quantity out of which, in one case he is on bail and in one case he has undergone the sentence. So far as petitioner-Amardeep Singh is concerned, he is involved in one more case of non-commercial quantity, however, he has undergone the sentence in the same. It is submitted that in the facts and circumstances of the present case, petitioners deserve to be granted regular bail.

5. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioners. He submits that the recovery effected in the present case is on due compliance of Section 42 of the NDPS Act. He submits that total 500 Kgs of poppy husk was



recovered and thus, provisions of Section 37 of NDPS Act are attracted in this case. He, on instructions, has submitted that out of total 22 prosecution witnesses, 06 witnesses have been examined so far. He has produced the custody certificate of the petitioners.

6. On 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. In all there are 11 accused out of which 05 accused are already on bail. As submitted out of total 22 prosecution witnesses, 06 witnesses have been examined. Custody certificates produced would show that petitioner-Sarbjit Singh @ Sarba has completed an incarceration of 01 year, 09 months and 06 days as on 06.05.2025. Though he is involved in 03 more cases, however, in one case he is on bail and in one he has undergone the sentence. Whereas, petitioner-Amardeep Singh has completed an incarceration of 07 months and 16 days as on 06.05.2025 and he is involved in one more case, however, he has undergone the sentence in the said case.

7. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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. The trial of the case will take



sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioners succeed in making out a case for grant of regular bail. Accordingly, both the petitions are allowed. Petitioners are ordered to be released on bail on their 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.

9. In case the bail bonds are not furnished by the petitioner-Sarbjit Singh @ Sarba during the period of 07 days from today, then his further custody period after one week will not be counted in the present case.

10. Photocopy of this order be placed on the file of other connected cases.

(**RAJESH BHARDWAJ**)
JUDGE

07.05.2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No