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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-57715-2024

Date of decision:-07.05.2025

DES RAJ @ DESA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

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

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

SANJIV BERRY, J.(ORAL)

Learned State counsel has filed custody certificate dated 06.05.2025, the same is taken on record, copy thereof has been supplied to the counsel opposite.

2. The instant petition has been preferred by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail in the following case:-

FIR No.	Dated	Sections	Police Station
99	08.08.2022	21(B), 22, 29 of NDPS Act	Mehatpur and District Jalandhar Rural

3. Arguments heard.

4. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case and he is in custody since 29.10.2024. He contends that the alleged recovery of



contraband from the petitioner does not fall within the purview of commercial quantity, hence prayed for grant of regular bail to the petitioner.

4. *Per contra*, learned State counsel referring to the reply submitted by the State, has assailed these arguments by submitting that from the conscious possession of the petitioner 270 tablets of Tramadol, 2 grams of heroin was recovered whereas from the conscious possession of co-accused Jagdish Raj @ Disa 13 injections containing “Buprenorphine Hydrochloride” was recovered, as such he prays for dismissal of the bail petition.

5. After considering the rival contentions and perusing the record, it is observed that as per the case of the prosecution on 08.08.2022, the police party had apprehended one car driven by the petitioner and co-accused Jagdish Raj @ Disa was sitting on the conductor seat on being searched, from the envelope carried by the co-accused 13 injections along with 4 grams of heroin was recovered while from the car driven by the petitioner 2 gram of heroin and 270 loose tablets of Tramadol were recovered. The petitioner was arrested on 08.08.2022 and later granted interim bail on 20.10.2022 on account of non receipt of FSL report and again taken into custody on 29.10.2024 since then he is in custody. After completion of investigation, challan has already been presented in Court wherein prosecution has cited 13 witnesses and till date only one witness has been examined. It is not disputed by learned State counsel that recovery allegedly effected from the conscious possession of the petitioner does not attract Section 37 of the NDPS Act. The conclusion of trial, to ascertain

criminal liability, if any, of the petitioner will take sufficient long time, as such, no purpose would be served by detaining the petitioner any longer.

6. Resultantly, in these circumstances, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. It is further made clear that in case the petitioner is again found involved in any case under NDPS Act, after his release on bail, it will be open for the prosecution to move an application for cancellation of his bail in accordance with law.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

9. Pending application(s) if any shall also stand disposed of.

(SANJIV BERRY)
JUDGE

07.05.2025

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No