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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-16641-2024

Date of decision:-07.05.2025

GURSEWAK SINGH ALIAS SEWAK

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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

Present:- Mr. Amardeep Singh, 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 439 of the Code of Criminal Procedure for grant of regular bail in the following case:-

FIR No.	Dated	Sections	Police Station
66	13.08.2023	21-C of NDPS Act (29 NDPS added later)	Sarai Amanat Khan, District Tarn Taran

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 13.08.2023. He contends that the alleged recovery of



contraband is marginally above the non commercial quantity. He contends that petitioner is not having any criminal antecedents and after completion of investigation, challan has already been presented in Court, wherein prosecution has cited 11 witnesses and till date none of them have been examined. Hence prayed for grant of regular bail to the petitioner.

5. *Per contra*, learned State counsel referring to the reply submitted by the State, has assailed these arguments by submitting that 255 gram of heroin was recovered from the conscious possession of the petitioner and 265 grams was recovered from the co-accused Sonu Singh. Hence prayed for dismissal of the bail petition.

6. After considering the rival contentions and perusing the record, it is observed that as per the version of the prosecution, police apprehended the petitioner alongwith co-accused Sonu Singh on 13.08.2023 and from conscious possession of the petitioner 255 gram of heroin was allegedly recovered from the right pocket of his pant, whereas from co-accused Sonu Singh 265 gram of heroin was recovered. After completion of investigation, challan has already been presented in Court wherein prosecution has cited 11 witnesses and till date none of them have been examined. Admittedly, the recovery effected from the petitioner is marginally higher than the non commercial quantity. The conclusion of trial to ascertain criminal liability, if any, of the petitioner, will take sufficient long time. Therefore, considering the slow pace with which the trial is proceeding, as well as the fact that the recovered contraband allegedly effected from the petitioner is marginally higher then the non commercial quantity, this case is deemed fit where rigor



of Section 37 of the NDPS Act could be diluted, as such, no purpose would be served by detaining the petitioner any longer

7. 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.

8. 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.

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

10. 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