



CRM-M-21380-2025

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

**CRM-M-21380-2025**

Date of Decision: 23.07.2025

Pankaj Sharma

..... Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Sachin Ohri, Advocate, for the petitioner.

Ms. Simran Gorla, AAG, Punjab.

**Rajesh Bhardwaj, J. (ORAL)**

1. Petitioner has approached this Court by way of present third petition praying for grant of regular bail in a case FIR No.24 dated 07.02.2023 under Sections 20, 25, 27(a) of the NDPS Act, 1985, at Police Station Dinanagar, District Gurdaspur.

2. Succinctly, facts of the case are that on 07.02.2023, the police party while on patrolling, received a secret information to the effect that two young persons were involved in smuggling of narcotics and they would be coming in a car bearing registration No.PB-02DX-2290 from the side of Himachal Pradesh. On receiving the secret information, barricading was laid by the police and vehicles were checked. The vehicle as disclosed in the secret information was seen and the same was stopped. On asking, driver of the car disclosed his name as Lovli Singh, whereas, the person sitting on the conductor seat disclosed his name as Pankaj Sharma (petitioner). They were suspected to be carrying some contraband and thus, they were given offer to be searched. On conducting search, a plastic bag containing 3.300 Kgs of charas was recovered. They failed to produce any licence regarding the possession of the same. Thus, the FIR the registered and both the accused



were arrested on the spot. The investigation commenced and the samples taken were sent to the FSL. The petitioner approached the Court of learned Judge, Special Court, Gurdaspur 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 15.06.2023. Thereafter, the petitioner approached this Court twice for the grant of regular bail, however, the same were dismissed as withdrawn vide orders dated 14.12.2023 and 12.12.2024. Hence, the petitioner has again approached this Court praying for grant of regular bail by way of filing the present third 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 the FIR was registered on the basis of secret information, but there is violation of mandatory provisions of Section 42 of the NDPS Act. He submits that the recovery was effected from a public place, however, no independent witness has been joined, thus, there is violation of Section 50 of NDPS Act as well. He submits that the petitioner is behind bars since the date of his arrest, however, there is no progress in the trial. He submits that prosecution is intentionally prolonging incarceration of the petitioner by not producing the prosecution witnesses before the trial Court. He submits that the petitioner has no criminal antecedents and thus, in the overall facts and circumstances of the case, he deserves to be granted bail.

4. Per contra, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. She has submitted that recovery in the present case has been effected on the basis of the secret



information. Both the accused were travelling in a car and from the search of the car 3.300 kgs of charas was recovered, which is a commercial quantity and thus, Section 37 of the NDPS Act are attracted. On instructions, she has submitted that out of 15 prosecution witnesses, only 02 witnesses have been examined and 01 witness has been given up. She has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since 07.02.2023. As submitted before this Court, out of total 15 prosecution witnesses, 02 witnesses have been examined and 01 witness has been given up. The custody certificate reflects that the petitioner has suffered incarceration of 02 years, 05 months & 12 days as on 22.07.2025. It further reflects that the petitioner has no criminal antecedents.

6. 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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*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"<sup>22</sup> (also see Donald Clemmer's 'The Prison Community' published in 1940<sup>23</sup>). 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.'*

7. 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.

8. 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.

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

**(RAJESH BHARDWAJ)**  
**JUDGE**

**23.07.2025**

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