



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

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**CRM-M No. 1000-2025 (O&M)
Date of Decision: 03.05.2025**

Jatinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Amitabh Tewari, Advocate for the petitioner.
Mr. Amit Shukla, DAG, Punjab.

MAHABIR SINGH SINDHU, J.

Present second petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for grant of bail pending trial to the petitioner in FIR No.07 dated 07.01.2023, registered under Sections 21(c), 23, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act'), [Section 25 of Arms Act, 1959 added later on], registered at Police Station Sadar Fazilka, District Fazilka.

2. Allegations are that 31.020 kg. heroin (commercial in nature) was recovered from Harmeet Kamboj as well as Paramjit Singh and petitioner has been nominated on the basis of disclosure made by above co-accused.

3. Learned State counsel has produced custody certificate dated 02.05.2025, which is taken on record. Registry to tag the same at appropriate place.



4. Contends that petitioner is in custody since 13.10.2023; report under Sections 173 Cr.P.C. has been presented, but charges are yet to be considered. Further contends that there are total 22 PWs cited by the prosecution, thus, trial will take sufficient long time. Again contends that neither petitioner is named in the FIR; nor any recovery has been effected from him; rather nominated on the basis of disclosure made by co-accused.

5. *Per contra*, learned State counsel vehemently opposed the prayer while submitting that although petitioner is not named in the FIR, but he has been nominated on the basis of disclosure made by both the co-accused i.e. Harmeet Kamboj and Paramjit Singh. Further submits that petitioner is a previous convict in FIR No. 314 dated 21.09.2023, under Section 15 of NDPS Act, Police Station City Ferozepur and in view of the specific bar under Section 37 of NDPS Act, petitioner is not entitled for bail.

6. Heard learned counsel for the parties and perused the paper-book.

7. Before proceeding further, it is relevant to extract the provisions of Section 37 of the NDPS Act and the same read as under:-

Section 37 of the NDPS Act – Offences to be cognizable and non-bailable.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—



(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.”

8. Aforesaid Section, is in the nature of non-obstante clause to Cr.P.C. including Section 439 there of and which, *inter alia*, lays down that no person accused of an offence involving commercial quantity shall be released on bail, unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such an offence and not likely to commit any offence while on bail.

9. Both the above conditions are cumulative and not alternative. The law is well settled that requirement of satisfaction in terms of Section 37 (1)(b)(ii) (*ibid*) regarding the accused being not guilty is to be recorded on the basis of reasonable grounds and that should be more than *prima facie*.

10. It is not in dispute that initially, petitioner was not named in the FIR; but during the course of investigation, it surfaced that he is a part of racket and the petitioner was nominated as an accused.

11. It is not in dispute that petitioner is a previous convict, thus, his credentials cannot be said to be clean.

12. In view of the above, this Court is not inclined to record the twin test satisfaction in favour of the petitioner as per Section 37 of the NDPS Act.

13. Also noteworthy that the menace of drugs has completely



ruined the State of Punjab and which needs to be dealt with sternly. Hon'ble the Supreme Court in ***Parwinder Singh @ Parminder Kumar @ Vicky Vs. State of Punjab***, SLP (Crl.) 12601-2023, decided on 14.12.2023, has held as under:-

“5. Having heard learned counsel for the parties, we are of the considered view that the parameters of granting bail in a case under special statutes like NDPS Act may not be liberally construed in the instant case. We say so taking notice of the fact that the State of Punjab is reeling under the grip of drug menace. There are several drug lords whose roots are identifiable in the State of Punjab, and who operate in the cross-border drug racketing and organized trafficking of narcotic drugs and psychotropic substances. It is a matter of common knowledge that huge cache of illicit drugs is smuggled across the border. Some local Pharmaceutical Industries, State police officials and other affluent people have been suspected to be involved, at occasions, in international drug trafficking. The drug addiction has posed a serious threat to the once vibrant state of Punjab. The Courts, therefore, ought to be highly circumspect while granting bail, especially to a repeat offender.”

14. Consequently, there is no option, except to dismiss the petition, at this stage.
15. Ordered accordingly.
16. Above observations be not construed as an expression of opinion on merits of the present case, in any manner.

Pending application(s), if any shall also stands disposed off.

03.05.2025
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No