

229

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

CRM-M-54999-2025

Date of decision : 08.10.2025

Deepak @ Jatt**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Raj Kumar Gupta, Advocate
for the petitioner.

Mr. Raj Karan Singh, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Petitioner has approached this Court by way of filing the present third petition praying for grant of regular bail to him in case FIR No.132 dated 23.9.2024 under Sections 18, 29 of the NDPS Act, 1985, registered at Police Station Adampur, District Jalandhar, during the pendency of the present trial.

2. Succinctly, facts of the case are that on 23.09.2024, the police party while on patrolling saw two boys coming on Aactiva bearing No.PB-07-CA-3297. On seeing the police, they got perplexed and threw two bags they were carrying with them. On suspicion, they were stopped. The driver of the Aactiva, disclosed his name to be Amandeep Singh @ Kaka whereas, the person sitting pillion, disclosed his name to be Mandeep Singh. The bags threw by them were searched and the same were found to be carrying opium weighing 1.5 kg each and thus, in all 3 kgs of opium was recovered from both the bags. They failed to produce any license regarding the possession of the same and thus, the FIR was registered and they were arrested on the spot. During investigation, they made a

disclosure statement regarding the complicity of the petitioner and thus, he was also arrayed as an accused in the present case however, the petitioner was already in jail in FIR No.78 dated 18.06.2020, under Sections 18/29/85/61 of NDPS Act at P.S. Lalru. As he was arrested in the present case on the production warrant on 22.10.2024, he approached the Court of learned Judge, Special Court, Jalandhar praying for grant of regular bail. However, after hearing counsel for both the sides, the same was declined vide order dated 04.11.2024. Being aggrieved, petitioner earlier approached this Court twice by way of filing CRM-M-55178-2024 and CRM-M-65626-2024 for grant of interim bail however, the same was partly allowed vide orders dated 07.11.2024 & 03.01.2025. Hence, this is the third petition filed by the petitioner praying for grant of regular bail.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He has submitted that neither the petitioner was present at the spot nor any recovery has been effected from him. He submits that admittedly, petitioner was behind bars on the date of the recovery of 03 kgs of opium effected from the co-accused. He submits that the petitioner has been arrayed as an accused on the basis of the disclosure statement of the co-accused which is an inadmissible evidence. He further submits that once the petitioner was already behind bars, there was no occasion for him to be involved in the present case. He submits that in a premeditated manner, the investigating agencies have implicated the petitioner in the present case. He thus, submits that in the facts and circumstances of the case, the petitioner deserves to be granted the concession of regular bail.

4. Learned State counsel however, has opposed the submissions made by learned counsel for the petitioner. He submits that petitioner was in conspiracy with the co-accused and his complicity was established during the investigation. He further submits that the petitioner was behind bars on the date of the recovery of the contraband effected from the co-accused. He has placed on record the custody certificate of the petitioner. He, on instructions, submits that out of 15 prosecution witnesses, no witness has been examined till date. It is submitted that the recovery effected from the petitioner was 3 kgs of opium which is a commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted in the case. He thus, submits that petitioner does not deserve to be granted the concession of regular bail.

5. 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 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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21it 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.

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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.'

6. After hearing learned counsel for the parties and perusing the record, it is deciphered that on the date of the recovery of 03 kgs of opium effected from the co-accused namely, Amandeep Singh and Mandeep Singh, petitioner was already behind bars in FIR No.78 dated 18.06.2020, under Sections 18/29/85/61 of the NDPS Act at P.S. Lalru. Petitioner has been arrayed as an accused in the present case on the basis of the disclosure statement of the co-accused. Petitioner was arrested in the present case on 22.10.2024 on production warrant. Custody certificate produced by the State shows that petitioner has undergone the sentence of 11 months and 12 days as on 07.10.2025. It further reflects that the petitioner is involved in two other cases as well however, he is not on bail in those cases.

7. The veracity of the allegations would be assessed only after 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. However, keeping in view the overall facts and circumstances of the present case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

8. If the petitioner does not furnish the bail bonds within seven days from today, then his further custody period after one week will not be counted in the present case.

08.10.2025
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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