



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

(1) CRM-M-48822-2024

Gurbakhshish Singh @ Gurbakhshihs Singh Dhillon

..... Petitioner

Versus

State of Punjab

.....Respondent

(2) CRM-M-61711-2024

Gurdev Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

Date of Decision: 15.05.2025

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Komal Preet Kaur, Advocate, for the petitioner
in CRM-M-48822-2024.
Mr. Amanpreet Singh Pannu, Advocate, for the petitioner
in CRM-M-61711-2024.
Mr. J.S. Arora, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. This order will dispose of the above-mentioned two petitions as both the petitions have arisen out of same FIR.
2. Petitioners have approached this Court by way of present petition praying for granting regular bail in case FIR No.171 dated 11.12.2023 under Section 21(c) of NDPS Act, 1985 registered at Police Station Jhabal, District Tarn Taran.
3. Succinctly, facts of the case are that on 11.12.2023, the police party while on patrolling received a secret information that Gurbakhshish Singh (petitioner in CRM-M-48822-2024) and Gurdev Singh (petitioner in CRM-M-61711-2024) were going to supply heroin towards Jhabal side. In case of raid, they could be arrested alongwith the contraband. On finding the



information reliable, raiding team was constituted and barricading was done. As per the secret information received, a car make Verna was seen coming from Bhikhiwind Gaggubuha side. It was signalled to be stopped, however, the driver of the car took U-turn, due to the traffic, he could not turn back. Car was stopped by the police officials. On asking, the driver of the car disclosed his name as Gurbakhshish Singh, whereas, the person sitting on the passenger seat disclosed his name as Gurdev Singh. They were suspected to be carrying some contraband, thus, offer was given to search the car. On conducting search, a black coloured polythene bag containing 1.5 kgs of heroin, was recovered from the dash board of the car and Indian currency of total Rs.5,050/- was also recovered near the gear liver. They failed to produce any licence regarding the possession of the same. Thus, on the registration of the FIR, they were arrested on the spot. The investigation commenced. Samples taken were sent to the FSL. The petitioners approached the Court of learned Additional Sessions Judge, Tarn Taran 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 Gurbakhshish Singh vide order dated 08.07.2024 and dismissed the bail application filed by Gurdev Singh vide order dated 22.07.2024. Hence, the petitioners have approached this Court praying for grant of bail by way of filing the present petitions.

4. It has been vehemently contended by learned counsel for the petitioners that the petitioners have been falsely and frivolously implicated in the present case. They have submitted that the FIR in the present was lodged on the basis of secret information, but there is violation of Section 42



of the NDPS Act. They submit that the petitioners are not the owner of the car, from which the alleged recovery was effected. It is submitted that there is a violation of Section 50 of NDPS Act as well. They submit that the petitioners have no criminal antecedents and the recovery in the present case has been falsely planted upon them. It is submitted that the petitioners are behind the bars from the date of their arrest, however, there is no material progress in the trial. It is, thus, submitted that the petitioners deserve to be granted bail.

5. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioners. He has submitted that both the petitioners were named in the secret information and on the due compliance of the provisions of the NDPS Act, the recovery was effected from the car, in which they were travelling. It is submitted that recovery of contraband effected in the present case is 1.5 kgs of heroin, which falls under the commercial quantity, thus, provisions of Section 37 of the NDPS Act are attracted. On instructions, he submits that out of 15 prosecution witnesses, 02 witnesses have been examined so far. He has placed on record the custody certificates of the petitioners.

6. After hearing counsel for the parties and perusing the record, it is deciphered that the FIR in the present case was lodged on the basis of secret information. The alleged recovery is from the dash board of the car. The petitioners are behind bars since the date of their arrest and thus, Gurbakshish Singh has suffered incarceration of 01 year, 02 months & 27 days as on 17.03.2025 and Gurdev Singh has suffered incarceration of 01 year 04 months & 26 days as on 14.05.2025. Though Gurbakshish Singh is



involved in one more FIR, but it pertains to the jail offence, whereas, Gurdev Singh has no criminal antecedents.

7. 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.

20 xxxxx

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.

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"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.'

8. 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 petitioners succeed in making out a case for grant of regular bail to the petitioners.

9. Accordingly, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

10. It is being clarified that in case petitioner Gurbakshish Singh does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.

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

(RAJESH BHARDWAJ)
JUDGE

15.05.2025

sharmila

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