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

CRM-M-60541-2024

Date of decision : 30.04.2025

**Harjinder Singh @ Nikka @ Harwinder Singh****.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Lakhwinder Singh Mann, Advocate  
for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab assisted by

**RAJESH BHARDWAJ, J. (Oral)**

1. Present petition has been filed by the petitioner praying for grant of regular bail in case FIR No.5 dated 09.01.2024, under Sections 21(C)/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 10, 11, 12 of Aircraft Act, 1934 (Section 29 of NDPS Act added lateron), registered at Police Station Khalra, District Tarn Taran.

2. Succinctly the facts of the case are that the police party while on patrolling and checking the bad elements on 09.01.2024, one Ranjodh Singh S/o Lakhwinder Singh informed them that one drone had fallen in his land in the field of wheat. On receiving the information, the Company Commander BSF was informed by the Police official. Thereafter, the police along with colleagues had taken Ranjodh Singh along with them reached at the fields pointed out by Ranjodh Singh and there one drone was found lying with yellow packet which was tied with kundi. The same was separated and on weighing it weighed to be 515 grams including



packing material. Thereafter, it was found containing some contraband i.e. heroin and on weighing the same, it found to be 496 grams of heroin. The FIR was registered and investigation commenced. During investigation, on 02.02.2024, the secret information was received wherein names of 03 accused were informed including the petitioners, hence, they were arrayed as an accused. Resultantly, the petitioner was arrested on the next day i.e. on 03.02.2024. The petitioner approached the Learned Additional Sessions Judge, Tarn Taran for grant of bail, however, after hearing both the sides, the same was declined by the Learned Additional Sessions Judge, Tarn Taran vide order dated 10.04.2024. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. It has been vehemently contended by counsel for the petitioner that the petitioner in the present case has been implicated on the basis of presumptions and assumptions. He submits that as per the case of the prosecution, the FIR was registered against some unknown persons. He submits that the FIR was registered on 09.01.2024 whereas the petitioner was arrayed as an accused on the basis of some secret information received by the Police on 02.02.2024. It is submitted that except the secret information and the disclosure statement of the co-accused, the prosecution has not been able to collect any evidence regarding the complicity of the petitioner in the alleged offence. He submits that though the petitioner is involved in one more case of the similar nature, however, he is on bail in the said case. He submits that petitioner is behind bars since the date of his arrest, however, there is no progress in the trial till date. He, thus, submits that in the facts and circumstances of the present case, he deserves to be granted regular bail.



4. Additional affidavit of Mr. Preetinder Singh, PPS, Deputy Superintendent of Police, Sub Division Valtaha, Camp at Bhikhiwind, District Tarn Taran has been filed on behalf of respondent-State, in the Court today, same is taken on record.

5. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the petitioner is involved in the smuggling of heroin with the smugglers across the border. It is submitted that during investigation the complicity of the petitioner in the present case was established and hence, he along with 02 other co-accused was arrested. It is submitted that the recovered contraband weighs 496 grams of heroin, which falls under the commercial quantity, and thus provisions of Section 37 of NDPS Act, are attracted. He, on instructions, has submitted that out of total 14 prosecution witnesses only 03 witnesses have been examined so far. He has drawn the attention of this Court to the status report filed and submits that on receiving the secret information the petitioner was arrested and he confessed the offence in his disclosure statement. He has produced the custody certificate of the petitioner. He submits that in the overall facts and circumstances of the case, petitioner does not deserve to be granted bail.

6. On hearing counsel for the parties and perusing the record, it is deciphered that the FIR in the present case was lodged against the unknown persons, however, subsequent to the registration of FIR, some secret information was received on the basis of which the petitioner was arrayed as an accused. As per the status report filed, the disclosure statement of the petitioner was recorded, wherein he allegedly admitted



having committed the offence. The custody certificate produced would show that he has suffered an incarceration of 01 year, 02 months and 24 days as on 29.04.2025. It further reflects that he is on bail in other case, in which he is facing the prosecution.

7. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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

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.*

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. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the 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 Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

( **RAJESH BHARDWAJ** )  
JUDGE

30.04.2025

*ps-I*

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