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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-57306-2024

Date of decision:-21.05.2025

GURSEWAK SINGH ALIAS KALA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Amit Arora, Advocate for the petitioner.

Mr. Durgesh Garg, AAG, Punjab.

SANJIV BERRY, J.(ORAL)

Learned counsel for the State has filed reply by way of an affidavit dated 24.03.2025 of Superintendent of Police, Sub-Division Patti, District Tarn Taran, the same is taken on record, copy thereof, has been supplied to the counsel opposite.

2. The instant second petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure, for grant of regular bail in the following case:-

FIR No.	Dated	Sections	Police Station
0122	15.08.2023	21 (C) of the NDPS Act (29 of NDPS Act added later on	Sirhali, District Tarn Taran

3. Arguments heard.

4. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case and he is in custody since 15.08.2023. He contends that the alleged recovery of 263 grams of heroin is marginally above the non commercial quantity.



After completion of investigation, challan has already been presented in Court, wherein prosecution has cited 12 witnesses and till date none of them have been examined. Hence prayed for grant of regular bail to the petitioner.

5. *Per contra*, learned State counsel referring to the reply submitted by the State, has assailed these arguments by submitting that 263 gram of heroin was recovered from the conscious possession of the petitioner, hence prayed for dismissal of the bail petition. However, he has not disputed the fact that challan has already been presented in Court, wherein prosecution has cited 12 witnesses and till date none of them have been examined.

6. After considering the rival contentions and perusing the record, it is observed that as per the version of the prosecution, during patrolling, police apprehended petitioner on 15.08.2023 and on checking, recovery of 263 gram of heroin was effected from him. After completion of investigation, challan has already been presented in Court wherein prosecution has cited 12 witnesses and till date none of them have been examined. Admittedly, the recovery effected from the petitioner is marginally higher than the non commercial quantity. The conclusion of trial to ascertain criminal liability, if any, of the petitioner, will take sufficient long time. Therefore, considering the slow pace with which the trial is proceeding, as well as the fact that the recovered contraband allegedly effected from the petitioner is marginally higher than the non commercial quantity, this case is deemed fit where rigor of Section 37 of the NDPS Act could be diluted, as such, no purpose would be served by detaining the petitioner any longer in custody.



7. In these circumstances, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

8. It is further made clear that in case the petitioner is again found involved in any case under NDPS Act, after his release on bail, it will be open for the prosecution to move an application for cancellation of his bail in accordance with law.

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

10. Pending application(s) if any shall also stand disposed of.

(SANJIV BERRY)
JUDGE

21.05.2025

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |