

2025:PHHC:052092



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

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CRM-M-63509-2024 (O&M)  
Date of decision: 24.04.2025

**Gurbaj Singh @ Kala****...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Sukhbir Maandi, Advocate  
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

**MANISHA BATRA, J. (Oral)**

1. Prayer in this petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No. 239 dated 10.11.2023, registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Gharinda, District Amritsar (Rural).
2. Brief facts of the case relevant for the disposal of the present petition are that on 10.11.2023, the petitioner was apprehended by a police party headed by SI Rashpal Singh on the basis of suspicion and recovery of 400 gram of heroin was effected from him in the presence of the Deputy Superintendent of Police Gurinderpal Singh. The petitioner was formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for commission of aforementioned offence. He had moved an application for grant of regular bail before the

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learned trial Court but the same had been dismissed, vide order dated 23.04.2024.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. The petitioner has no concern with the alleged recovery as the same was in fact planted upon him. Mandatory provisions of Section 50 of the NDPS Act were not properly complied with. No independent witness was joined at the time of effecting alleged recovery. The petitioner is in judicial custody since 10.11.2023. Investigation has since been completed and challan has been presented. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

4. Reply has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has argued that the petitioner is not entitled to get benefit of bail as a commercial quantity of the contraband was recovered from him. He was nabbed at the spot. His story regarding false implication and plantation of the recovered contraband is concocted one. It is further argued that since the recovery of the contraband effected from the petitioner falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted against him. The trial may be expedited. The petitioner may abscond or indulge in similar offences, if extended benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record.

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6. As per the allegations, the petitioner was apprehended by the police party on 10.11.2023 and recovery of 400 grams of heroin was effected from him. The quantity of the recovered contraband obviously falls under the commercial quantity, the same having threshold quantity of 250 grams. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioner. The apprehension of learned State counsel that if extended benefit of bail, the petitioner may abscond or indulge in similar offences can also not be stated to be unfounded at this stage. Trial is going on and there is nothing on record to suggest that there would be any undue delay in conclusion of trial. The arguments raised by learned counsel for the petitioner with regard lacunas in the investigation cannot be looked into at this stage while deciding a bail petition filed under Section 439 of Cr.P.C. as the same is to be decided by the learned trial Court after appreciating the entire evidence and material placed on record before it. Therefore, keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered from him, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, this Court is of the considered opinion that he does not deserve to be granted concession of regular bail, at this stage. Accordingly, the present petition is dismissed.

7. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

24.04.2025

*Wasim Anwar*(MANISHA BATRA)  
JUDGE

*Whether speaking/reasoned*  
*Whether reportable*

*Yes/No*  
*Yes/No*