

2025:PHHC:091116



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

**CRM-M-61323-2024
Date of Decision: 23.07.2025**

Kuljit Kaur @ Kuldeep Kaur ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rituraj Singh, Advocate
for the petitioner(s).

Ms. Simran Gorla, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present 2nd petition praying for granting regular bail in case FIR No.69 dated 20.06.2023 under Sections 21(C)/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Valtoha, District Tarn Taran.

2. Succinctly, facts of the case are that on 20.06.2023, the police party while on patrolling saw a person coming from the front side, who on seeing the police got perplexed and threw a polythene on the road. On suspicion he was apprehended and on asking, he disclosed his name Sukhwinder Singh @ Sukha. He was suspected to be carrying contraband in the polythene, which was thrown by him. The same was searched and on conducting the search, 500 grams of heroin was recovered from the polythene bag. He failed to produce any licence regarding possession of the same. Hence, he was arrested on the spot and on registration of the FIR, the investigation commenced. During investigation, he made a disclosure statement about the petitioner, who is wife (petitioner) of the Sukhwinder Singh @ Sukha. The complicity of the petitioner was disclosed by

Sukhwinder Singh @ Sukha to the effect that they had been engaged in a consignment of the contraband which was drawn across border and the same was given by the petitioner to him. The police party made a raid for arresting the petitioner and another 255 grams of heroin was recovered from her. Thus, she was arrested on 14.07.2023 and also arrayed as an accused in the present case. On completion of the investigation, the challan was presented. On framing of charges, the trial commenced. The petitioner 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 the petitioner vide order dated 20.02.2024. Thereafter, she approached this Court by way of filing petition CRM-M-14065-2024, which was dismissed as withdrawn on 11.09.2024. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present 2nd petition.

3. It has been contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously roped in the present case. He submits that petitioner has been arrayed as an accused on the basis of the disclosure statement of the co-accused (Sukhwinder Singh @ Sukha) i.e. husband of the petitioner. He submits that recovery of 255 grams of heroin was planted upon the petitioner. It is submitted that there is no independent witness regarding the recovery having been alleged against the petitioner. He further submits that there is violation of Sections 42 and 50 of the NDPS Act as well. He submits that the petitioner has no criminal antecedents, as she has never been involved in any other case. He further submits that petitioner is behind bars since the date of her arrest i.e. 14.07.2023. It is submitted that the petitioner has completed incarceration of about 02 years, but there is no progress in the trial. He, thus, submits that in view of the facts and circumstances of the case, the petitioner

deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. She submits that the petitioner along with her husband is involved in commission of the offence under the NDPS Act. It is submitted that as per case of the prosecution both husband and wife are involved in collecting the contraband which were supplied from across the border. She has submitted that on due compliance of Sections 42 and 50 of the NDPS Act, recovery of 500 grams of heroin was effected from the husband of the petitioner and from the petitioner another 255 grams of heroin was recovered, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. It is submitted that out of total 22 prosecution witnesses, two witnesses have been examined so far. She has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested on the basis of the disclosure statement of her husband Sukhwinder Singh @ Sukha. Thereafter, when police arrested her, another alleged recovery of 255 grams of heroin was also effected. The petitioner is behind bars since 14.07.2023, however, out of total 22 prosecution witnesses, two witnesses have been examined till date. The custody certificate would reflect that the petitioner has suffered incarceration of 02 years & 08 days as on 23.07.2025. It further reflects that the petitioner has no criminal antecedents.

6. 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.

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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.'

7. 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. Thus, keeping in view the arguments raised by both the sides, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

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

23.07.2025

Parveen kumar

**(RAJESH BHARDWAJ)
JUDGE**

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